

RECORD COPY
File Name ADM-1-1-1 SPC Meeting
Senders Initials JS Oct. 1992

MEETING AGENDA
ENVIRONMENTAL PROTECTION COMMISSION
WALLACE STATE OFFICE BUILDING
DES MOINES, IOWA

October 19, 1992

Meeting convenes at 10:00 a.m., Monday, October 19, 1992, in the fourth floor conference room.

Public Participation - *John Neubauer* 10:30 a.m.

APPOINTMENTS:

Paula Paul (Inerts)

11:00 a.m.

Leo Schachtner (Item #14)

1:30 p.m.

City of Centerville (15-B)

2:00 p.m. } 45 min.
2:00 p.m. }

Young Radiator Company (15-A)

1. Approve Agenda.
2. Approve Minutes of September 21, 1992.
3. Director's Report. (Wilson) Information.
4. 1993 Legislation Package. (Wilson) Decision.
5. Budget Update and Decision Packages. (Kuhn) Information.
6. Section 319 Nonpoint Source Pollution Control Contract Approval. (Kuhn) Decision.
7. Interagency Agreement for Small Business Compliance Technical Assistance Center. (Kuhn) Decision.
8. Landfill Alternative Grant Contracts. (Hay) Decision.
9. Monthly Reports. (Stokes) Information.
10. Air Quality State Implementation Plan Revisions. (Stokes) Information.
11. Notice of Intended Action--Chapter 102, Solid Waste Financial Assurance Rules. (Stokes) Decision.
12. Final Rule--Chapter 61, Certification of Corps of Engineers Regional Permits. (Stokes) Decision.

EPC Agenda - Page 2

- 13. Proposed Contested Case Decision--Dell Oil Limited. (Stokes) Decision**
- 14. Contested Case Decision Appeal--Leo Schachtner. (Stokes) Decision.**
- 15. Referrals to the Attorney General. (Stokes) Decision.**
 - (a) Young Radiator Company (Centerville)**
 - (b) City of Centerville**
 - (c) Central Paving Corporation (Indianola)**
 - (d) Don Smith (Dallas Center)**
 - (e) Marion Stark (Kellerton)**
 - (f) Joslin Enterprises, Ltd. (Anamosa)**
 - (g) John Prins/Bradford Paving (Bradford)**
 - (h) Nob Hill Supper Club (Decorah)**
 - (i) Breitbach's Tap (Sherrill)**
 - (j) Stone City General Store**
 - (k) Dick White (Wellman)**
- 16. General Discussion**
- 17. Address Items for Next Meeting**

NEXT MEETING DATES

November 16, 1992

December 21, 1992

January 19, 1993 (Tuesday)

ENVIRONMENTAL PROTECTION COMMISSION

Monday, October 19

NAME	COMPANY OR AGENCY	CITY
(PLEASE PRINT)		
M. LeClerc	Chenorse, Ltd.	Des Moines, Ia.
Perry Beeman	Des Moines Register.	Des Moines.
Rex Martin	Ciba - Geigy	Des Moines
Jane B. McAllister	Ahlens Law firm	DSM
Amy Christensen Couch	Sullivan + Ward	Dm
DANNY VEST	GROWMARK	Bloomington, IC.
Mark Tmesdell	Beving, Swanson + Forrest	DM.
Rusty Lewis	Iowa Soft Drink Assn	D.M.
Bill Monroe	Iowa Newspaper Assn	DM
Mary Braun	House Dem. Caucus	DM
Theresa Kubel	Sen Dem Caucus	DM
John Newbauer	Blueberry Plask	DM
Rod Brubt	CR Byette	

ENVIRONMENTAL PROTECTION COMMISSION

Monday, Oct. 19

NAME	COMPANY OR AGENCY	CITY
(PLEASE PRINT)		
Jon Leafstedt	American Cyanamid	Des Moines
Dennis CAVNER	Monsanto	Muscatine
Cary Mandafely	Johnson Wax	Racine, WI.
Phil Klein	Chemical Specialties Manufacturers Assoc.	Washington DC
Keith Luchtel	Negusante. Law Firm	DSM
Jon Ford	Chevron	Richmond, CA
Jerry Glover	Monsanto	St. Louis, MO
Chris Gault	Farm Bureau	WDSM
Denise Bodeker	Farm Bureau	WDSM
Jack Kepl	IAGU	DES MOINES
DAN FRIEBERG	PCA	DES MOINES
Cal Hanna	NALC	P. Morris
Sean Ryan	UHL	PM.

ENVIRONMENTAL PROTECTION COMMISSION

Monday, Oct. 19

NAME	COMPANY OR AGENCY	CITY
(PLEASE PRINT)		
DOUG RUSHING	MONSANTO	DES MOINES
JOE NETTLETON	SALISBURY CHEMICALS	CHARLES CITY
Eric Eide	Johnson Law Firm	Ft. Dodge
Leo Schachtmor	Fonda Farmer.	Fonda Ia
Ed Shirley	YOUNG RADIATOR	CENTERVILLE
JAMES CRAVER	CITY OF CENTERVILLE	CENTERVILLE
Julie Smith	Legislative Service	DM
David Whelan	Bureau	DM
Thomas W. Ferrieman	Iowa Farm Bureau	Ames Ia
	City of Ames	

RECORD COPY *EPC Meeting*
October 1992
File Name *ADM-1-1-1*
Senders initials *JS*

MINUTES
OF THE
ENVIRONMENTAL PROTECTION COMMISSION
MEETING

OCTOBER 19, 1992

WALLACE STATE OFFICE BUILDING
DES MOINES, IOWA

TABLE OF CONTENTS

Call to Order.....	1
Members Present.....	1
Members Absent	1
Adoption of Agenda.....	1
APPROVED AS AMENDED	1
Approval of Minutes	1
APPROVED AS PRESENTED.....	1
Director's Report.....	1
Budget Update - Decision Package	2
INFORMATIONAL ONLY	5
Section 319 Nonpoint Source Pollution Control Contract Approval	5
CONTRACT APPROVED AS PRESENTED	6
Interagency Agreement - University of Northern Iowa - Small Business Assistance Program	6
AGREEMENT APPROVED AS PRESENTED	7
Public Participation	7
Russell Laird	7
Bill Monroe.....	8
John Neubauer.....	8
Tom Neumann.....	10
Keith Luchtel.....	11
Dan Frieberg	11
Paula Paul	13
Dennis Caver	13
Cary Manderfield.....	14
John Ford.....	14
Jim Melton	14
Contested Case Decision Appeal--Leo Schachtner.....	15
Appointment - Eric Eide.....	16
CASE TABLED FOR 60 DAYS	19
Public Participation (Continued).....	19
Trish Smallenberger.....	19
Referrals to the Attorney General.....	19

Young Radiator Company and City of Centerville.....	20
Appointment - Jim Craver (City of Centerville).....	20
Appointment - Ed Shirley (Young Radiator Co.)	21
REFERRED BOTH PARTIES.....	21
Landfill Alternative Grant Contracts.....	21
CONTRACTS APPROVED AS PRESENTED.....	25
1993 Legislation Package.....	25
(1) Create an Environmental Trust Fund	25
PROPOSAL APPROVED AS AMENDED	28
(2) Air Quality Authority Corrections Necessary to Implement the New Federal Clean Air Act	28
PROPOSAL APPROVED AS PRESENTED	28
(3) Eliminate 10 Year Moritorium on Wastewater Treatment Plant Updates	28
PROPOSAL DELETED FROM LEGISLATION PACKAGE	29
4) Funding for Waste Reduction Assistance Program (WRAP)	30
PROPOSAL APPROVED AS PRESENTED	32
(5) Corrective Amendment to Solid Waste Tonnage Fee Language.....	32
PROPOSAL DELETED FROM LEGISLATION PACKAGE	33
(6) Waste Oil Collection	33
PROPOSAL APPROVED AS AMENDED	34
(7) Bottle Bill Corrections	34
PROPOSAL DELETED FROM LEGISLATION PACKAGE	36
(8) Include Collection of Recyclables as a Requirement in Construction.....	36
PROPOSAL APPROVED AS PRESENTED	36
(9) Minimum Recycled Content of Newsprint	36
PROPOSAL DELETED FROM LEGISLATION PACKAGE	38
(10) Expanding Procurement Policies to Include Local Governments.....	38
PROPOSAL APPROVED AS PRESENTED	41
(11) Stormwater Permit Authority Technical Correction.....	41
NO ACTION NEEDED.....	41
(12) Establishing Fees on Pesticides and Fertilizers to Support Water Treatment Costs	42
PROPOSAL FAILED TO PASS.....	44
(13) Public Disclosure of Inert Ingredients in Pesticides	44
PROPOSAL FAILED TO PASS.....	47
(14) Minimize Product Packaging and Increase Package Recyclability	47
PROPOSAL APPROVED AS AMENDED	56
Accountability for Solid Waste Tonnage Fees that Local Agencies Retain.....	56
NO ACTION NEEDED.....	56
Monthly Reports.....	56
INFORMATIONAL ONLY	72
Air Quality State Implementation Plan Revisions.....	72
INFORMATIONAL ONLY	72

Notice of Intended Action--Chapter 102, Solid Waste Financial Assurance Rules	72
APPROVED AS PRESENTED.....	113
Final Rule--Chapter 61, Certification of Corps of Engineers Regional Permits	113
APPROVED AS PRESENTED.....	115
Proposed Contested Case Decision--Dell Oil Company	115
AFFIRMED ADMINISTRATIVE LAW JUDGE DECISION.....	115
Referrals to the Attorney General (Continued)	115
Central Paving Corporation	116
REFERRED.....	116
Don Smith.....	116
REFERRED.....	116
Marion Stark	116
REFERRED.....	117
Joslin Enterprises, Ltd.	117
REFERRAL WITHDRAWN.....	117
John Prins/Bradford Paving	117
REFERRED.....	117
Nob Hill Supper Club	117
REFERRED.....	117
Breitbach's Tap.....	118
REFERRAL WITHDRAWN.....	118
Stone City General Store	118
REFERRED.....	118
Dick White	118
REFERRED.....	118
Next Meeting Dates	118
Adjournment.....	118

MEETING MINUTES

CALL TO ORDER

The meeting of the Environmental Protection Commission was called to order by Chairperson Hartsuck at 10:00 a.m. on October 19, 1992, in the Wallace State Office Building, Des Moines, Iowa.

MEMBERS PRESENT

Verlon Britt
William Ehm
Richard Hartsuck, Chairperson
Rozanne King
Charlotte Mohr
Gary Priebe
Nancylee Siebenmann
Clark Yeager

MEMBERS ABSENT

Margaret Prahl

ADOPTION OF AGENDA

The following adjustments were made to the agenda:

- Add: Appointment - City of Centerville (Item 15-B) 2:00 p.m.
- Add: Appointment - Young Radiator Company (Item 15-A) 2:00 p.m.
- Add: Item 15-K: Referrals to the Attorney General, Dick White (Wellman)

Motion was made by William Ehm to approve the agenda as amended. Seconded by Nancylee Siebenmann. Motion carried unanimously.

APPROVED AS AMENDED

APPROVAL OF MINUTES

Motion was made by Charlotte Mohr to approve the meeting minutes of September 21, as presented. Seconded by Rozanne King. Motion carried unanimously.

APPROVED AS PRESENTED

DIRECTOR'S REPORT

Larry Wilson, Director, invited the Commission to attend a meeting of the Midwest Low Level Radioactive Waste Compact Commission at 4 p.m., Tuesday, November 10. The meeting will be held in Room 118 of the Capitol Building and will be hosted by DNR.

Director Wilson informed the Commission that he has another commitment and will be away from today's meeting until 2:30 p.m. He asked that the Commission delay review of the Legislation Package until he returns.

It was the consensus of the Commission to delay the legislation item until Director Wilson returns.

BUDGET UPDATE - DECISION PACKAGE

Stan Kuhn, Division Administrator, Administrative Services Division, presented the following item.

Attached for review and comment is the first draft of the budget request decision packages relative to the operations budget request for FY94/5.

As indicated on page 4 of the attachment, the base operations budget plus the decision packages add to a total request of approximately \$14.1 million from the State General Fund, \$19.9 million from the Fish and Wildlife trust fund, and \$19.1 million from federal and groundwater sources. The total request is approximately \$53.2 million which is slightly higher than the comparable FY92 total operations budget of \$52.3 million.

Consistent with past practice, the budget request is being submitted using the 75% modified zero-based methodology. The highest priority is the so-called "Base" which is defined by statute as being equal to 75% of the current, FY92 budget.

The remainder of the request is arrayed in a series of "decision packages" in priority order. The total of the "base" and all "decision packages" constitute the entire budget request for operations. The "base" is the highest priority, decision package #1 is the next highest, etc. In the attachment, decision package #30 is the lowest priority.

Decision package #9 represents an addition to the current Waste Management Assistance program. Decision package #24 is a request for General funds to continue solid waste program activities previously funded by oil overcharge funds. Decision package #29 is a request for additional General funds to meet increasing water supply monitoring responsibilities. Decision package #30 is a request to increase Fish and Wildlife funding for the purchase of equipment and maintenance items above the current, FY92 level of expenditure.

The remainder of the decision packages represent restoration of current activities within the lower 25% of the operating budget.

The attachment is an initial draft and it is likely that there will be some adjustments before it is presented to the commissions for final approval. This schedule was already presented to the NRC at their October meeting for review and comment.

October 1992

Environmental Protection Commission Minutes

Mr. Kuhn gave a detailed explanation of the priorities and changes made to the budget package. He noted that this item will be back for Commission approval in November.

INFORMATIONAL ONLY

SECTION 319 NONPOINT SOURCE POLLUTION CONTROL CONTRACT APPROVAL

Stan Kuhn, Division Administrator, Administrative Services Division, presented the following item.

The Commission is requested to authorize the director to enter into the following contracts with the Division of Soil Conservation, Iowa Department of Agriculture and Land Stewardship, to continue five ongoing nonpoint source (NPS) pollution control projects. All the contracts are for a one year period and will be funded using EPA Section 319 NPS pollution control funds awarded to the Department for these projects.

Iowa Great Lakes Water Quality Protection Project (Dickinson County). The contract will support the third year of a five year project to reduce sediment, nutrient, and pesticide pollution in the Iowa Great Lakes region. Funds will be used to support an Environmental Specialist who will coordinate and implement a wetlands development and restoration program; a nutrient and pesticide management program; and best management practices in the watershed as well as coordinating with other agencies in Iowa and Minnesota on joint activities and planning and conducting public information/education activities. The contract amount is for \$32,250.

West Lake Water Quality Project (Clark County). The contract will support year three activities of a five year project intended to preserve, protect and improve the water quality in West Lake by reducing the movement of sediment, nutrients, and other agricultural pollutants into the lake. West Lake is used for municipal, industrial, and rural water supply and provides wildlife, fishing, and recreational benefits. Funds will be used to support an Environmental Specialist to conduct project activities and to support a nutrient and pesticide management program. In addition to nutrient and pesticide management, the project emphasizes the use of conservation tillage, buffer strips, and terraces within the lake watershed. The contract amount is \$47,083.

Floyd County Groundwater Protection Project. The contract will support year three activities of a five year project to protect the quality of groundwater in the Devonian bedrock aquifer, a locally important source of drinking water. The project is intended to reduce the nonpoint source pollution of the aquifer by agricultural nutrients and pesticides. The contract will support an Environmental Specialist who develops and coordinates project activities including improved nutrient and pesticide management,

establishment of buffer strips around sinkholes, and closure of agricultural drainage wells. The contract amount is for \$32,610.

Lake Pahoja Water Quality Project (Lyon County). The contract will support year two of a three year project to protect and improve the water quality of Lake Pahoja by reducing the movement of sediment, nutrients, and pesticides into the lake. Funds will be used to implement an integrated crop management program, to restore and develop wetlands, to establish buffer strips along major drainageways, and to implement animal waste and other best management practices. The contract amount is \$59,500.

Coon Creek Water Quality Project (Allamakee/Winneshiek Counties). The contract will support year two activities of a three year project to protect and preserve the water quality of Coon Creek, a cold water trout stream, by reducing the movement of sediment and animal waste into the stream. Funds will be used to support project staff and provide financial (cost share) incentives for best management practice installations. Best management practices being used include contour stripcropping, terraces, animal waste management, fencing of and establishing vegetation within stream corridors, and improved pasture management. The contract amount is \$88,621.

Motion was made by Nancylee Siebenmann to approve the Section 319 Nonpoint Source Pollution Control Contracts with Division of Soil Conservation (DALS). Seconded by William Ehm. Motion carried unanimously.

CONTRACT APPROVED AS PRESENTED

INTERAGENCY AGREEMENT - UNIVERSITY OF NORTHERN IOWA - SMALL BUSINESS ASSISTANCE PROGRAM

Stan Kuhn, Division Administrator, Administrative Services Division, presented the following item.

Attached is a copy of an interagency agreement that has been negotiated between the Department and the University of Northern Iowa. This agreement sets forth each agency's respective role in the small business assistance program which is part of the new operating permit program mandated by the Clean Air Act Amendments of 1990.

The staff of the Iowa Waste Reduction Center at the University of Northern Iowa will provide various assistance services to small businesses to help them react to and comply with the operating permit program requirements and eventually will serve as the secretariat to the Compliance Advisory Panel.

The Commission is asked to approve this interagency agreement.

(A copy of the interagency agreement is on file in the department's Records Center)

Mr. Kuhn presented information on how the Small Business Assistance Program will operate and how it will help businesses.

Mr. Stokes pointed out that the center will provide outreach programs, assistance with regulatory requirements, and will make sure small businesses know their rights.

Discussion followed regarding the number of FTE's that will be funded through this program.

Several commissioners commented that they feel this is an excellent program.

Motion was made by Nancylee Siebenmann to approve the Interagency Agreement for Small Business Compliance Technical Assistance Center at UNI. Seconded by Charlotte Mohr. Motion carried unanimously.

AGREEMENT APPROVED AS PRESENTED

PUBLIC PARTICIPATION

Russell Laird

Russell Laird, representing Iowa Soft Drink Association and Iowa Wine Distributors Association, addressed the Commission in regards to the proposed legislative item dealing with Bottle Bill Corrections. He stated that the Iowa Wholesale Beer Distributors Association was unable to attend the meeting and asked him to present their position on this issue. He distributed a copy of their position paper to each Commissioner.

Mr. Laird expressed concern with the proposed change in definition to place nonalcoholic beers and wines, and noncarbonated juices and waters under the bottle bill. He related that these items would create a hardship on the grocers and make them a general dumpsite as well as cause sanitation problems. Mr. Laird noted that their major concern is with the expansion of flat can centers. He presented a history of the bottle law noting problems encountered and remedies made. He explained that beer distributors do take flat cans but if it is expanded to all flat can centers, it will ruin the systematic way industry redeems cans. He encouraged the Commission not to disturb the flat can system now in place and asked them not to make any changes in the areas of concern.

Bill Monroe

Bill Monroe, Iowa Newspaper Association, expressed concern about the legislative proposal to mandate the use of recycled newsprint. He related that his association shares the department's efforts to reduce the flow of old newspaper to the landfills and they have set goals to do so. He noted that publishers are now using 135% more recycled newsprint than in 1990, and the percentage of publishers now using recycled newsprint is 87%. He related that the other 13% cannot get the recycled newsprint. He provided statistics on progress being made by mills nationwide. Mr. Monroe stated that newspapers and suppliers have gotten the message and he would suggest that the department continue to work with them on a voluntary basis rather than mandating laws. He added that working with them would make them feel they are a solution to the situation rather than a problem.

Discussion followed regarding the percentage of publishers using recycled newsprint; how many times newsprint can be recycled; percent of newsprint going to landfills; Newspaper Association goals for recycled newsprint usage; and how many states have mandates or set goals for using recycled newsprint.

John Neubauer

John Neubauer, President of Blueberry Plastic Mill Corporation, distributed copies of a written presentation to the Commission as follows:

REMARKS BY JOHN C. NEUBAUER, PRESIDENT
THE BLUEBERRY PLASTIC MILL CORP.
Before the Iowa Environmental Protection Commission
October 19, 1992

Mr. Chairman, members of the Commission. I am John C. Neubauer, president of The Blueberry Plastic Mill Corp. in Des Moines and a DNR landfill alternative grant recipient earlier this year. I wish to express serious doubts about the proposed expansion of the deposit bill and suggest instead that the nickel deposit be removed from aluminum beverage cans. Included in the package being distributed to each of you is my summary of policy and economic considerations from expanding the deposit bill, a brochure and product sample of our company, and a list of our investors.

Blueberry Plastic is the first major recycled resin manufacturer in the State of Iowa that buys a variety of recycled plastics at \$40-60 per ton and turns them into value worth \$500 to \$600 per ton for use by Iowa molders. We compete with and displace imported virgin resin with Iowa-made recycled resin. We have assembled one of the most high-

tech recycled resin plants in the country. We reprocess #2 recyclable containers like this and #4 clear stretch and shrink wraps like this (examples shown). We sort and grind the recycled plastics into flakes. We wash the flakes at temperatures exceeding 200 degrees F. to remove the labels and odors. We then extrude and pelletize the flakes back into beads of resin, which then go back into new plastic products made by Iowa companies.

Along with many leading Des Moines area businesses and business leaders, the State of Iowa is a major investor in our cutting-edge company. In addition to a \$100,000 DNR grant, the Iowa Product Development Corp. has purchased \$100,000 of company stock, the Iowa Department of Economic Development and the City of Des Moines have provided a \$100,000 loan package, and the Iowa Business Development Credit Corp. has provided a \$250,000 working capital loan. We have recycling supply agreements with the City of Des Moines, Mahaska County, and Johnson County Recycling Center. We are currently negotiating similar agreements with more than 10 other Iowa county recycling centers.

The proposal to expand the deposit bill is ill-advised and warrants serious scrutiny of the mid-level DNR staff who are advocating it. The original bottle bill, which was a well-conceived litter control measure in the 1970s, today is an out-dated dinosaur which drains recycling revenues from Iowa local governments. The proposed expansion, inaccurately described as "providing consistent treatment to the same types of containers", will in fact cover a whole new type of containers - the very kind that we remanufacture into resin in our plant. We do not need the state to place a nickel deposit on this container in order to get the public to recycle. This is the 1990's; not the 1970's. The public is successfully recycling through their local governments increasing amounts of these containers every day without a nickel deposit. The only thing a nickel deposit on #2 containers would do is take the revenues from these items out of the hands of local governments and put them into the hands of the private company, Container Recovery Inc., that already monopolizes the revenues from recycled aluminum cans covered by the nickel deposit.

The state already requires local governments to achieve a 25% recycling level by 1994 and a 50% recycling level by the year 2000. The state should help local governments finance these recovery levels by removing the nickel deposit from aluminum cans returned to stores. Doing so would allow local governments in the state to add aluminum to their list of recyclables. The revenues they could collect from aluminum would help finance the costs of all their recycling. On the position paper I have distributed, please note the per pound value of unprocessed recycled aluminum compared to other recycled items. Aluminum has a current value in the marketplace of 25-35 cents per pound compared to the others whose value ranges from negative value to 7 cents per pound. In fact, this very container that would be added to the deposit bill has the next highest value after aluminum. Where will that money go? To the very same private company who already gets the revenues from aluminum. I believe the State should let local

governments keep that revenue; and then enable them to get back the revenue from aluminum as well. The nickel deposit merely subsidizes a private company at the expense of local governments across the state.

Finally, to foster even greater recycling statewide, recommend that the legislature pass mandatory recycling and focus on building markets for products made with recycled content. We urge you to delay passing judgment on this proposal for at least one month and look more closely at the impact of the deposit bill on local government recycling revenues. Additionally, we invite you to tour our plant at your convenience. Thank You.

Don Paulin, Deputy Director, pointed out that the bottle bill proposal deals only with products containing less than 32 oz. capacity.

Mr. Neubauer explained that all plastics are not alike as there are different types of resins which have different types of manufacturing processes and cannot be reprocessed in the same way.

Tom Neumann

Tom Neumann, Director of Water Pollution Control for the City of Ames, addressed the Commission regarding the legislative proposal to eliminate the 10 year moratorium on wastewater treatment plants. He related that he sent each Commissioner a letter last week outlining his concerns and asking them to delay any action on this issue until there is time to adjudicate it. He added that deleting this language from the Iowa statute would remove their case from adjudication. Mr. Neumann stated that they would like to complete the adjudication process because they have a disagreement with EPA.

Keith Luchtel

Keith Luchtel, representing the Iowa Grocers Association, asked if the president of the Iowa Grocers Association could address some of the legislation items after lunch. He noted that she could not be present until that time.

Chairperson Hartsuck stated that the Commission would like to allow everyone an opportunity to speak and she may make a presentation after lunch.

Dan Frieberg

Dan Frieberg, Iowa Fertilizer and Chemical Association, addressed the Commission on the issue of inert ingredients in pesticides. He presented the following written statement:

"I want to thank the Commission for this opportunity to speak to you regarding the inert ingredients issue. I am Dan Frieberg, Executive Director of the Iowa Fertilizer and Chemical Association. The Association members range in size from basic manufacturers of fertilizer and ag chemicals, to distributors and to the bulk of our membership which are local dealers who retail to farmers. Our members sell over 90% of the fertilizer and ag chemicals sold in Iowa.

I'll discuss the provisions of Iowa's existing law on inert ingredients. I'll be followed by other speakers who will address other specific aspects of the inerts issue. Our goal is to increase everyone's understanding of the federal inerts regulatory scheme and the provisions of Iowa's law. We hope you will see that regulators, scientists, and physicians treating specific patient exposures do have available information to protect the environment and public health.

Iowa's inert ingredient disclosure contained in section 206.12, Iowa Code has evolved over the last four legislative sessions. This evolutionary process required a considerable effort on the part of your Department, the Department of Agriculture, and the Department of Health and Industry representatives to address legitimate research and medical treatment concerns while respecting the need of companies to protect proprietary information.

In order to distribute, sell, or offer for sale a pesticide in this state a registration statement is required to be filed with the Iowa Department of Agriculture and Land Stewardship. A part of the required registration includes an ingredient statement which lists the accepted common name and percentage by weight of each active ingredient as well as the percentage of inert ingredients in the pesticide product. In addition a separate inert ingredient statement is required to be filed which contains the common name of each inert ingredient listed in rank order according to weight of each inert ingredient present. Iowa is the only state to require inert ingredients be disclosed to the state and clearly has the most comprehensive inert ingredient law in the country.

The statute further states that upon written request by the Director of the Department of Natural Resources (DNR) or the Director of the Center of Health Effects of Environmental Contamination (CHEEC), the Secretary shall provide a copy of the ingredient statement and inert ingredient statement for a product to them.

A product registrant is given the opportunity to claim that the ingredient information is a confidential trade secret and is entitled to trade secret protection provided the registrant does one of the following:

1. Provides to a data base system used by a poison control center operating in Iowa the information required by an attending physician to treat a patient for exposure, including the identification of all ingredients toxic to humans, or
2. The registrant operates an emergency information system that is accessible 24 hours a day every day of the year and has available the information necessary for medical professionals to treat exposure including the identification of all ingredients toxic to humans and toxicological and medical management information.

Note that confidentiality is not automatic; one of these conditions must be satisfied in order to obtain confidentiality.

The medical treatment information may be shared with an attending physician for the purpose of treating a specific patient exposed to the registrant's product. The DNR and CHEEC are required to treat any ingredient information they receive as confidential trade secret information not subject to release if the aforementioned criteria for confidentiality are satisfied.

The law specifically provides that the confidentiality protection does not prohibit the public disclosure of research, monitoring, published, or summary data relative to any inert ingredient so long as such disclosure does not link an inert ingredient to a particular brand of pesticide. Nor shall the law be interpreted to prohibit the release of information independently obtained from other sources.

There are other provisions within the statute; but, I have summarized the main points which are directed to make available information for legitimate research purposes by the DNR and CHEEC on the other hand.

It is obviously in industry's interest to see that persons suffering from exposure to pesticide products receive the best medical treatment possible. The Iowa legislation was crafted to dovetail with industry efforts in that regard. Likewise, industry welcomes legitimate scientific inquiry and oversight which recognizes the economic necessity of preserving proprietary information to prevent unauthorized reproductions of products and theft of technology."

Mr. Frieberg distributed a list of other speakers who will address the inerts issue.

Paula Paul

Paula Paul, Director of Regulatory Affairs for NOR-AM Chemical Company, provided each Commissioner a copy of a booklet entitled "EPA Regulation of Pesticide Inert

Ingredients - October 19, 1992." Ms. Paul discussed EPA policies on how they regulate inert ingredients. She defined what inert ingredients are and how they work in a product. She expanded on the information contained in the booklet. Ms. Paul pointed out that EPA has divided inert ingredients into four lists: 1) List 1 contains inerts of known toxicity; 2) List two contains inerts with high priority for testing; 3) List 3 contains inerts not considered suspect but more testing needed; and 4) List 4 contains inerts of minimal concern or fully tested. She added that quite a lot of data are available on all of these inerts. Ms. Paul explained what type of information is required to register an inert ingredient with EPA. She provided an example of a Confidential Statement of Formula and expanded on details of the information contained in the statement. She displayed a sample Material Safety Data Sheet and explained same. In conclusion, she noted that most toxic inerts have been removed from products or are on List 1, or the product has been labeled stating the toxic ingredients in the product.

Dennis Cavner

Dennis Cavner, Plant Manager, Monsanto Company at Muscatine, distributed material explaining quality controls used in the manufacturing of their products. He spoke about raw materials that go into a formulation and how they have to go through a qualification process to be used in a formulation. He explained testing the company does to make sure that raw materials shipped to them are the materials they actually ordered. Mr. Cavner noted that samples of these products are kept for 8 years. He reviewed the analytical testing process the company uses. Additionally, he explained the process they use to select outside formulators.

Cary Manderfield

Cary Manderfield, Research Toxicologist at Johnson Wax Company, addressed the Commission stating that the current system provides adequate information for physicians to treat their patients. Johnson Wax has made their formulas available for the last 15 years. They contract with a poison control center to handle accidents or adverse reactions to their products. He related that their in-house system has eight toxicologists that can be reached 24 hours a day. He noted that, under the current system, companies provide their formulas (including inert information) to a national database. This information is used to develop treatment protocols that are available by telephone. Hospitals and poison control centers purchase this information and it is available to any health professional calling a poison control center. He expanded on poison control centers, how they are certified, and how they have the best qualified people to help with pesticide questions and exposures. Mr. Manderfield pointed out that there are toll free phone numbers on their product labels where a person can call for information. He noted that he brought along

some supporting documentation that their staff uses to handle exposures and it is available for the commission's review.

John Ford

John Ford, Clinical Toxicologist, Chevron Emergency Information Center, San Francisco, stated that they have their own in-house poison center and also provide a toll free phone number on all of their pesticide product labels. He related that they have five phone lines answered by emergency response technicians who are trained to do exposure assessments and handle all the nonmedical and veterinarian calls. Mr. Ford stated that calls regarding severe poisoning, or those from the medical community, are handled by 10 board certified toxicologists. They are available on a 24-hour basis. He noted that they have a list of all of the Chevron pesticide products going back to the 1960's. Mr. Ford related that composition information including inert ingredients is available for a physician treating a patient. Also, they can provide information for patch testing as well as do a literature search for physicians. The center serves as coordinator for emergency response calls and provides information on how to clean up chemical spills.

Jim Melton

Jim Melton, President of Chem Tech, Ltd., Des Moines, addressed the Commission stating that his concern is from an economic standpoint. He noted that he is a member of the Chemical Producers and Distributors Association whose members are all small or medium size companies. Mr. Melton stated that they do not want to disclose inerts because of the impact it would have on small companies from an economic standpoint. He added that to survive in this competitive marketplace it is extremely important that the technology developed by the individual chemical companies be appropriately protected. Mr. Melton noted that the EPA registration process insures that any hazardous substance will not be allowed into the marketplace. He stated that he believes the present system adequately protects the public from inerts in pesticides. He reiterated that full public disclosure would be devastating to small companies like his.

A lengthy discussion followed regarding companies' use outside formulators; the Confidential Statement of Formula; quality assurance checks; how often a company must disclose inert information to EPA and DALS; pesticide applicator's requirement for certification; duration of time inert information records are kept by industry and EPA; health effects on industry employees and farmers; and Material Safety Data Sheet availability to employees.

Nancylee Siebenmann stated that she feels labels and toll free numbers are a step in the right direction but it does not do enough for prevention. She added that some people have different reactions to different products and they do not need a formula but they do need to know the ingredients. She related that toll free numbers are after-the-fact. Commissioner Siebenmann also noted that an individual can take responsibility for themselves if they know they are allergic to a specific ingredient and that ingredient is listed on the label.

William Ehm commented that it might be the process that causes a problem rather than the ingredient itself, and possibly, as suggested by Commissioner Siebenmann, the labels could show only the inerts and not percentages or processes. He added that he has a problem that inerts are such a trade secret that disclosure would destroy the market for a certain product.

Mr. Cavner stated that the process used and the raw materials going into a product work together to make the right outcome. He related that you have to have both pieces to know the end result. Some products are easy to duplicate such as Lasso. He added that Lasso Micro-Tech is a product that contains an inert which is key to its process, and because of that his company patented that material.

CONTESTED CASE DECISION APPEAL--LEO SCHACHTNER

Mike Murphy, Bureau Chief, Legal Service Bureau, presented the following item.

On November 13, 1989, the department issued Flood Plain Permit No. 89-221 to the Department's Construction Services Bureau. That action authorized reconstruction of a water control structure and dike at the Shimon Marsh. That action was appealed by Leo Schachtner and the matter proceeded to administrative hearing on April 22, 1992. A Prehearing Ruling was also issued on March 25, 1992. The Administrative Law Judge issued the Proposed Findings of Fact, Conclusions of Law, and Order on May 14, 1992. The decision remands the application for permit back to the Department for reconsideration in accordance with the rulings in the Proposed Decision.

Mr. Schachtner has appealed this order to the Commission. The Prehearing Ruling, the Proposed Decision, and the Notice of Appeal have been distributed to the Commissioners. The entire record, including hearing tapes and exhibits are available for your review. The parties will be available to argue their respective positions and respond to your questions. You may then affirm the Proposed Decision, or modify or reverse it, substituting your own findings of fact and conclusions of law based on your conclusions from your review of the record and legal argument.

Mr. Murphy reviewed the case noting that there are separate divisions of the department involved in this case. The Fish and Wildlife Division and Construction Services Division were involved in obtaining the permit and the Environmental Protection Division was responsible for issuing the permit. Al Farris is present to respond to any questions from the F&W Division perspective. Mr. Murphy introduced Eric Eide, counsel for Leo Schachtner.

Appointment - Eric Eide

Eric Eide, counsel for Leo Schachtner, distributed copies of an aerial photo map and pointed out the area involved. He noted that the dam that originally formed the North Lake is approximately the same location as the new dam. He pointed out that an important feature is a stream channel which bisects the north half of the northeast quarter heading north from the outlet of the dam straight into the ditch. He related that it divides Mr. Schachtner's 80 acres almost in half. Mr. Eide stated that he will accept the Administrative Law Judge's Findings of Fact (FOF) and Conclusions of Law but he does not like the decision. He noted that there were mistakes in the ALJ decision because in FOF #18 there is no formal operating plan, and the ALJ said to do it now, after the dam has been put in. Secondly, in FOF #7, it states that Mr. Schachtner was never notified by the department concerning their application for a permit. Mr. Eide stated that DNR replaced a dam within 20 feet from Mr. Schachtner's south boundary, and even though there is 6 times more water coming out of the new dam, they did not feel Mr. Schachtner had to be notified. He added that the third problem is on page 9 of the ALJ decision where it states that there was no technical review of the outlet stream prior to approving a permit. Mr. Eide displayed hydrograph charts showing the cubic foot per flow for the old dam as compared to flow for the new dam. He related that his client paid an expert to produce these graphs and now the DNR wants an after-the-fact study. He stated that additional study is not needed and his client would like the permit revoked and the stream excavated so that it will hold water.

Randall Clark, Legal Services Bureau, stated that Mr. Eide indicated that delays in getting this case handled were because of the department, but most of the delays were due to Mr. Schachtner's two previous attorneys who did nothing when notification was given. In rebuttal to Mr. Eide's assertion that no one from DNR (other than Mike Mahn) ever visited the site, Mr. Clark noted that Scott Cline, a former DNR employee, had visited the site and helped draw up the design for the project but was not available as a witness. Mr. Clark agreed that the department did not provide an operating plan and is willing to do that. He added that that would be one of the items the remand would accomplish. He noted that in giving notice when an applicant proposes to replace an old dam with a new one, the department has to determine whether someone is potentially, adversely affected by an application in order to decide whether to give the landowners notice. Mr. Clark

related that unless a person has some kind of a property right in a structure to require that it continue, it is an artificial condition. The department considered that Mr. Schachtner did not have any right to the continuation to the old dam structure. He related that the department requested a pre-hearing ruling and lost it. Mr. Clark discussed the modeling charts done by Mr. Schachtner's expert and pointed out that they considered only one particular flood event, a 24-hour/ten year flood event. For that particular type of flood there is six times more water going out immediately. He noted that the two engineers agreed that if modeling is going to be considered as far as the effects of Mr. Schachtner's property, the full range of hydraulic events should be considered, not just one. Mr. Clark noted that that ties in very well with the ALJ's decision to remand it to the department to look at the full range of flood events. Additionally, Mr. Schachtner's petition was to revoke the permit and have the ditch cleaned out; it did not request removal of the dam. Mr. Clark stated that the decision of the ALJ is to correct the operating plan deficiency and to correct the failure to compare both structures. He related that the ALJ is saying that there is a need to do analysis comparing the old structure and new structure to determine what the capacity of the ditch should be. There may federal permits needed to clean out the ditch, and there is also the question whether cleaning out the ditch might impact Mr. Schachtner's right to crop payments.

Discussion took place regarding when the application was made and when construction began; how long it will take to do the studies recommended by the ALJ; and what the Commission has the authority to do.

Mr. Eide stated that he asked for revocation and if the Commission would like to amend the petition to allow for cleaning out the ditch, or revocation as an alternative, it is okay. He questioned the ALJ's authority to remand it and asked that the Commission grant what was asked for in the petition.

Further discussion took place regarding various issues in the case.

Bill Ehm commented that it seems to him there is a need for more studies to find out what remedies are needed.

Nancylee Siebenmann stated that she didn't find any fault with the ALJ findings and agrees with Commissioner Ehm that more study could possibly provide a remedy. She suggested that the Commission set a time limit to complete the study.

Chairperson Hartsuck stated that he was thinking along the same line insofar as setting a time limit.

Clark Yeager asked Al Farris what his opinion is and if the department would be willing to clean out Mr. Schachtner's ditch.

Al Farris stated that he would be hesitant for the Commission to reach a conclusion to have the ditch cleaned out unless assurance is given that permits and authority can be obtained for that. He added that part of the property may be a wetland and he would hate to see the Commission bind the staff to a decision that could not be carried out because it would be a violation of Swampbuster or a 404 permit.

Chairperson Hartsuck asked if staff could come back next month with a recommendation as to some reasonable disposition in the matter.

Al Stokes responded that he would feel more comfortable with bringing it back in 60 days.

Motion was made by Clark Yeager to table the the Leo Schachtner contested case for 60 days and instruct staff to come back with a recommendation on what has been worked out with Leo Schachtner and the staff.

Mr. Murphy stated that it is not clear what staff is supposed to do and he asked for clarification of the intent of the motion. He asked if they are supposed to do the studies to determine whether the ditch needs to be cleaned out or if staff is supposed to work out a deal. He added that there is a remand to do a study and it will come back before the Commission anyway. He related that the ALJ decision directs that the study weigh the competing interests of the upstream and downstream parties.

Chairperson Hartsuck clarified that the Commission desires to retain jurisdiction in this matter and set it aside for 60 days during which time staff will come back to the Commission with a recommendation as to what the Commission should decide, and that recommendation would be based on what is legal, possible, practical, and desirable. He further clarified that the Commission's direction is to Director Wilson to handle the matter with both affected divisions within the department.

Commissioner Yeager's motion was seconded by Rozanne King. Motion carried unanimously.

CASE TABLED FOR 60 DAYS

PUBLIC PARTICIPATION (CONTINUED)

Trish Smallenberger

Trish Smallenberger, President of the Iowa Grocers Association, addressed the Commission expressing concern with the proposed legislative item dealing with Bottl Bill Corrections. She stated that a clear definition of juice and non-carbonated soft drinks is needed as they have trouble defining juice under the Department of Revenue definitions and would need to be sure it does not include vegetables or fruits packed in their own juice. She also expressed concern with sanitation, storage space, and packaging and noted that these problems will become quite burdensome to the grocery industry. Ms. Smallenberger added that they are also concerned with waste oil and the liability that would be imposed upon stores by having waste oil disposal.

REFERRALS TO THE ATTORNEY GENERAL

Mike Murphy, Bureau Chief, Legal Services Bureau, presented the following item.

The Director requests the referral of the following to the Attorney General for appropriate legal action. Litigation reports have been provided to the Commissioners and are confidential pursuant to Iowa Code section 22.7(4). The parties have been informed of this action and may appear to discuss this matter. If the Commission needs to discuss strategy with counsel on any matter where the disclosure of matters discussed would be likely to prejudice or disadvantage its position in litigation, the Commission may go into closed session pursuant to Iowa Code section 21.5(1)(c).

- A. Young Radiator Company (Centerville) - wastewater
- B. City of Centerville - wastewater
- C. Central Paving Corporation (Indianola) - underground tanks
- D. Don Smith (Dallas Center) - underground tanks
- E. Marion Stark (Kellerton) - underground tanks
- F. Joslin Enterprises, Ltd. (Anamosa) - underground tanks
- G. John Prins/Bradford Paving (Bradford) - underground tanks
- H. Nob Hill Supper Club (Decorah) - water supply
- I. Breitbach's Tap (Sherrill) - water supply
- J. Stone City General Store - water supply

Young Radiator Company and City of Centerville

Mr. Murphy stated that Young Radiator is a manufacturing company whose processes result in wastewater containing metals which discharges to the city sanitary sewer system and passes into the city's wastewater treatment system. Administrative Orders were issued to the company to comply with treatment discharge limitations. An Administrative Order was also issued to the City of Centerville requiring them to enforce the limits

which are also contained in the city's operating permit. Violations have continued since the issuance of the orders. Mr. Murphy distributed copies of a letter the company submitted outlining their efforts to deal with the situation. He related that the violations continue in spite of those efforts.

Appointment - Jim Craver (City of Centerville)

Jim Craver, City Attorney, City of Centerville, addressed the Commission stating that an Administrative Order was issued directing the city to comply with and enforce all pretreatment standards of the permit in conjunction with the Young Radiator discharge. He related that since that order was issued the city's wastewater treatment supervisor has met several times with representatives of Young Radiator and the state. Mr. Craver outlined four ways of enforcing compliance with the pretreatment agreement as follows: 1) the city act as liaison between Young Radiator and the state in reporting violations; 2) bring action to magistrate court and assess fines; 3) bring action for an injunction to keep Young Radiator from polluting the system; and 4) suspend the company's use of the system. Mr. Craver noted that cities generally work with business in trying to resolve discharge problems. He stated that in each violation there was a mechanical breakdown or an employee made a mistake. He added that he feels progress is being made to resolve the problems and referral will not help the situation.

Brief discussion followed.

Appointment - Ed Shirley (Young Radiator Co.)

Ed Shirley, Manufacturing/Engineering Manager at Young Radiator Company, addressed the Commission stating that they received a letter from Jack Clemons of the DNR outlining results of an inspection. He noted that they have a whole list of things that have been done to come into compliance. Mr. Shirley stated that spikes appear to be related to pH acidity and a parallel system has been installed to take care of that. With duplicate pH meters if there is a malfunction in one, the other should take care of it. He noted that sampling is done in a different manner now which should improve the situation.

Discussion followed regarding various issues in the case.

Motion was made by Nancylee Siebenmann for referral of Young Radiator Company and the City of Centerville to the Attorney General's Office. Seconded by Rozanne King. Motion carried unanimously.

REFERRED BOTH PARTIES

LANDFILL ALTERNATIVE GRANT CONTRACTS

Gaye Wiekierak, Bureau Chief, Waste Management Assistance Division, presented the following item.

Fourteen (14) grant applications were selected for funding from the round of applications submitted the first Monday in June, 1992. Four (4) of the grant awards are of less than \$25,000. Ten (10) contracts are, at this time, presented to the Commission with a request for approval. These contracts are as follows:

1) Great River Regional Waste Authority \$195,185

To construct a transfer station in Louisa County, expand the recycling processing center in Lee County and to purchase equipment for initiation of additional urban curbside collection, rural drop-off collection and commercial collection in Louisa County and provide additional drop-off containers in rural Lee County. The total project involves Hancock County, Illinois as recommended in the regional comprehensive plan. Project funds requested are for the Iowa portion only. Ron Mace, Lee County Solid Waste Program Director is Project Manager.

2) Riverside Pallets \$150,840

To purchase necessary equipment to grind non-reusable wood pallets into marketable mulch, and animal bedding. The company is located in Riverside, Washington County and will serve a 21 county area of east central and southeastern Iowa. John Hahn is owner of Riverside Pallets.

3) Rathbun Area Solid Waste Management \$107,350
Commission

For construction, equipment purchase, supplies and salaries to improve the operation of existing recycling facility in Appanoose County. The project will serve 11 cities within Appanoose County, the City of Seymour in Wayne County and Princeton MO. Ralph Alshouse is the Chair of the Rathbun Area Solid Waste Management Commission.

4) Mason City, City of \$123,596

To assist implementation of a curbside recycling program in the City of Mason City, Cerro Gordo County, through the purchase of equipment, building construction, and education materials. Vic Potter is the Director of Public Services.

5) Allamakee County Solid Waste Department \$52,292

Grant funding is for implementation of a rural Allamakee County recycling program. Grants funds will be used for building remodeling, equipment and labor. Bill Adam is the Allamakee County Solid Waste Coordinator.

6) Sioux City Utilities Department, Solid Waste \$300,000

To assist in the construction and purchase of equipment, for the Sioux City Regional Reduction, Recycling and Waste Management Center, Woodbury County. The project will immediately serve the City of Sioux City, Woodbury County with services made available to other areas in the Tri-State area. John Green is the Solid Waste Systems Manager.

7) Humboldt Workshop, Inc. \$38,182

To expand an existing material reclamation facility to include glass, tin cans, and paper located in the City of Humboldt. The project will serve Humboldt County excluding the Cities of Livermore, Renwick, Hardy, and Rutland. Grant funds will be used for the purchase of equipment and supplies. Mary Mulligan is Executive Director.

8) BES Industrial Services, Inc. \$283,500

The grant will be used to purchase additional equipment to manufacture plastic pellets which will then be sold to regional plastic injection and blow molding firms. The facility intends to provide an end use market for an estimated 200,000 tons of plastic wastes currently being landfilled. The facility located in Cedar Rapids, Linn County, and will serve eastern Iowa. Tom Bowser, President of BES, and Glen Stouwie, Vice President, are the principals.

9) Holnam Inc. \$220,000

To develop the capacity to burn tire derived fuel, whole tires and/or tire shreds, representing a 15 to 30% coal fuel replacement. Grant funds would be applied toward cement kiln modifications and equipment. Applicant facility is located in Mason City, Cerro Gordo County. Waste tires would be procured statewide. Garey Kropf is the plant manager for the Mason City facility. Holnam Inc. is headquartered in Oklahoma.

10) Brief Encounters Laundry Service \$119,673

To establish a laundry service for institutionalized adults (nursing homes, hospitals and other facilities) located in Storm Lake, Buena Vista County, and will serve a rural 6 county area including Buena Vista, Calhoun, Sac, Ida, Pocahontas, and Cherokee Counties. The laundry service will reduce the volume of disposable diapers currently being landfilled in this area. Grant funds will be used for education/marketing, equipment, delivery vehicle and washable briefs. Pam Berg is co-owner of this venture.

A copy of the Scope of Work for each project is on file in the department's Records Center.

Ms. Wiekierak distributed a revised Scope of Work for Holnam, Inc., pointing out that a change was made in the language portion under 5.2 as follows:

5.2 Materials. Materials to be collected for waste-to-energy by the Contractor from the Project Area included whole and shredded waste tires. The Contractor shall guarantee to procure _____ percent of the waste tires utilized for this project from Iowa sources during the Time of Performance as identified on the title page of this Contract.

She related that it is unknown at this time what that percentage will be as staff is still trying to determine what that amount will be. Their proposal stated specifically that they will burn Iowa tires and they have a hierarchy of giving preference to local sources, followed by statewide sources, and then out-of-state sources.

Clark Yeager asked if it is customary to pay wages and transportation costs as proposed in the Riverside Pallets grant.

Ms. Wiekierak stated that it is acceptable to have wages included in the cost-share. She added that this grantee is meeting the requirements for the grant as he is funding 10% of the equipment and the total project is 50% funded.

Motion was made by William Ehm to approve the Landfill Alternative Grant Contracts for Great River Regional Waste Authority, Riverside Pallets, Rathbun Area Solid Waste Management Commission, City of Mason City, Allamakee County Solid Waste Department, Sioux City Utilities Department, Humboldt Workshop, Inc., BES Industrial Services, Inc., Holnam, Inc., and Brief Encounters Laundry Service. Seconded by Charlotte Mohr. Motion carried unanimously.

CONTRACTS APPROVED AS PRESENTED

1993 LEGISLATION PACKAGE

Larry Wilson, Director, reviewed the proposed legislation package and it was decided that action would be taken on each individual proposal rather than the package as a whole.

**DEPARTMENT OF NATURAL RESOURCES
ENVIRONMENTAL PROTECTION LEGISLATIVE PROPOSALS
1993 LEGISLATIVE SESSION**

NOTE: The following proposals are not listed in order of priority.

(1) Create an Environmental Trust Fund

Establish a trust fund which would receive user fees in air quality, solid waste, water supply, and water quality areas. These funds will be used to fund the administrative costs of the department in operating the programs of appropriate sections of Chapter 455B. User fees would be obtained by requiring that rules be adopted which establish a schedule of fees for permits and conditional permits issued by the department, and a schedule of fees to be periodically assessed for the administration of the permits.

This proposal was introduced during the 1992 session, but a final bill was not adopted. Funding of environmental protection programs is now at a critical stage. Wastewater program funding was handled through the old construction grants program; this source was eliminated in 1990, any reserve has been depleted. Solid waste programs have been operating off of oil overcharge funds, and this funding source will be exhausted after

1993. The drinking water program needs to be expanded due to increasing federal requirements. An adequate and reliable source of funding for these programs needs to be established.

PROPOSED LEGISLATIVE LANGUAGE:

Reintroduce SF 2305 as drafted during the 1992 legislative session (attached), with the following changes:

SECTION 1. Page 4, line 3 by deleting the word "permit".

SECTION 2. Page 10, line 23 by adding the following new section after the word "section 455B.104", and renumbering subsequent sections.

Section 19. Section 455B.307, subsection 3, Code 1991, is amended to read as follows:

3. Any person who violates any provision of part 1 of this division or any rule or any order adopted or the conditions of any permit or order issued pursuant to part 1 of this division shall be subject to a civil penalty, not to exceed five thousand dollars for each day of such violation. Moneys collected under this section shall be deposited in the hazardous substance remedial fund created pursuant to section 455B.423.

SECTION 3. Page 10, line 23, by adding the following new section after section 2 above, and renumbering subsequent sections.

Section 20. Section 455B.340, Code 1991, is amended to read as follows:

Any person who violates any provisions of this part 2 of division IV or rules adopted under said part, or any order of the department or director issued pursuant to said part or any order of the department or director issued pursuant to said part, shall be guilty of a serious misdemeanor and, in addition, the person may be enjoined from continuing such violation. Each day of continued violation after notice that a violation is being committed shall constitute a separate violation. Moneys collected under this section shall be deposited in the hazardous substance remedial fund created pursuant to section 455B.423.

Director Wilson stated that some of the historical sources of funds that have been used for environmental programs in the past will no longer be there and this proposal is an alternative that should be considered.

Charlotte Mohr asked what funds will go into this program.

Director Wilson responded that air quality, solid waste, water supply and water quality permit fees will all go into this fund.

Chairperson Hartsuck asked if these funds would be under the authority or oversight of the Commission.

Director Wilson responded that the Commission will have oversight.

William Ehm commented that he struggles with the issue of taxing the public without an opportunity for review but at the same time, considering recent budget problems in the state, there is a need to take some significant steps for funding environmental programs and this seems to be a good way to go. He added that it would be a method to insure some stability to the environmental protection efforts in the state.

Rozanne King stated that she did not support this proposal last year and it is her feeling that it takes the accountability away from the people and she would not be in favor of it.

Discussion followed regarding various aspects of the bill.

Charlotte Mohr stated that the word "Trust" should be taken out of the title if there is hope of getting the bill passed.

Clark Yeager stated that he does not support this bill, but if it passes it will need some language clean up because there are places where the Commission has authority and other places where the Director has authority. He related that authority should be consistent throughout the bill.

Discussion followed regarding mechanics of the fund itself and the fact that if the state cannot fund their programs the federal government will take them over.

It was agreed that the word "Trust" could be stricken from the title of the bill.

Motion was made by William Ehm to approve a legislative proposal to Create an Environmental Fund. Seconded by Nancy Lee Siebenmann.

Chairperson Hartsuck requested a roll call vote. "Aye" vote was cast by Commissioners Ehm, Siebenmann, Britt, and Hartsuck. "Nay" vote was cast by Commissioners King, Mohr, Priebe, and Yeager. Motion failed on a vote of 4-Aye to 4-Nay.

Gary Priebe stated that he is concerned with the language in which the Director charges fees and noted that the Commission is appointed to look at fee structures.

Director Wilson commented that the language can be changed to state that the Commission set fees rather than the Director.

Motion was made by William Ehm to approve a legislative proposal to Create an Environmental Fund with the language changes requested by Commissioner Priebe. Seconded by Nancylee Siebenmann.

Chairperson Hartsuck requested a roll call vote. "Aye" vote was cast by Commissioners Priebe, Siebenmann, Britt, Ehm, and Hartsuck. "Nay" vote was cast by Commissioners King, Mohr, and Yeager. Motion carried on a vote of 5-Aye to 3-Nay.

PROPOSAL APPROVED AS AMENDED

(2) Air Quality Authority Corrections Necessary to Implement the New Federal Clean Air Act

During the 1992 legislative session, the department proposed several amendments to our air quality authority which are necessary to implement the new federal clean air act. The amendments were not adopted in final form during 1992. The changes are absolutely needed this year, as the department must submit its final package to US EPA in November 1993 in order for Iowa to retain delegation of the federal air quality program.

PROPOSED LEGISLATIVE LANGUAGE:

Reintroduce SF 2229 as drafted and introduced during the 1992 legislative session (attached).

Director Wilson gave an explanation of this proposal. Mr. Stokes noted that this is a housekeeping type of issue to match up the state's air authority with the federal Clean Air Act.

Motion was made by Charlotte Mohr to approve the Air Quality Authority Corrections legislative proposal. Seconded by Verlon Britt. Motion carried unanimously.

PROPOSAL APPROVED AS PRESENTED

(3) Eliminate 10 Year Moritorium on Wastewater Treatment Plant Updates

This provision (455B.173(3)), which prevents the department from requiring compliance with more stringent effluent limits for ten years after construction of a facility, is not consistent with the federal water pollution control act. The US EPA has made it clear that failure to remove this provision will be cause for them to supersede our state program.

PROPOSED LEGISLATIVE LANGUAGE:

SECTION 1. Section 455B.173, subsection 3, unnumbered paragraph 3, Code 1993, is amended by deleting the paragraph.

Director Wilson reviewed the details this proposal.

Mr. Stokes stated that EPA has notified Ames and 5-6 other communities that the permits the department is able to issue under Iowa law, as it currently exists, can be viewed as being deficient because of the 10 year moratorium language. EPA notified those communities that if they do not get a state permit that is acceptable to the federal government EPA will step in and issue a federal permit which will supersede the state permit. He noted that the City of Ames is suing the federal government on this issue. The other communities worked with the DNR to be issued a federally approvable permit. Mr. Stokes added that the legislature chose not to act on this last year because Ames was in the middle of their litigation. He emphasized that if this is not changed the department will be precluded from issuing permits that mandate activities on individuals. If permits are issued that are in default, EPA will give those communities one chance to work with the DNR and if they do not, they will then be issued a federal permit and the federal government will enforce it.

Tom Neumann, City of Ames, stated that the city is responding directly against EPA for their denial of DNR's issuance of a permit, the way the ALJ directed DNR to do after the city's appeal of their permit in 1990. He noted that federal law allows the states to provide their own implementation strategy and that is done either by rule or by statute. He stated that EPA is required by law to follow that and they cannot do anything different. Mr. Neumann emphasized that if the Commission takes it out of the Iowa Code, the City of Ames no longer has anything to defend and their case is moot.

Further discussion followed.

Motion was made by Rozanne King to delete the proposal to Eliminate the 10 Year Moratorium on Wastewater Treatment Plants from the legislative package. Seconded by Clark Yeager. Chairperson Hartsuck requested a roll call vote. "Aye" vote was cast by Commissioners Mohr, Priebe, Siebenmann, Yeager, Britt, Ehm, King. "Nay" vote was cast by Commissioner Hartsuck. Motion carried on a vote of 7-Aye to 1-Nay.

PROPOSAL DELETED FROM LEGISLATION PACKAGE

4) Funding for Waste Reduction Assistance Program (WRAP)

This technical assistance program helps large businesses to reduce their solid and hazardous waste generation. It is currently funded by a US EPA grant; however, FY 93 is the final year for funding. Alternative funding sources have been proposed during the last two legislative sessions, but have not yet been adopted.

PROPOSED LEGISLATIVE LANGUAGE:

SECTION 1. Section 455B.423, subsection 2, Code 1993, is amended to read as follows:

2. The Director may use the fund for any of the following purposes:

a. Administrative services for the identification, assessment and cleanup of hazardous waste or hazardous substance disposal sites.

b. Payments to other state agencies for services consistent with the management of hazardous waste or hazardous substance disposal sites.

c. Emergency response activities as provided in part 4 of this division.

d. Financing the nonfederal share of the cost of cleanup and site rehabilitation activities as well as postclosure operation and maintenance costs, pursuant to the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980.

e. Financing the cost of cleanup and site rehabilitation activities as well as postclosure operation and maintenance costs of hazardous waste or hazardous substance disposal sites that do not qualify for federal cost-sharing pursuant to the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980.

f. Through agreements or contracts with other state agencies, work with private industry to develop alternatives to land disposal of hazardous waste or hazardous substances including, but not limited to, resource recovery, recycling, neutralization, and reduction.

g. Administration of the waste reduction assistance program or other activities related to assisting Iowa business and industry to reduce, recycle, or otherwise reclaim waste materials generated or processed.

However, at least seventy five percent of the fund shall be used for the purposes stated in paragraphs "d" and "e". At least fifty percent of the fund shall be used for the purposes stated in paragraphs "d" and "e". Twenty percent shall be used for the purposes stated in paragraph "g". The remainder shall be used for the purposes stated in paragraphs "a", "b", "c", and "f".

SECTION 2. Section 455B.424, subsection 1, Code 1993, is amended to read as follows:

1. The person who generates hazardous waste or the owner or operator of a hazardous waste disposal facility who transports hazardous wastes off of the site where the hazardous waste was generated or off the disposal facility site shall pay a fee of ~~ten~~ twenty-five dollars for each ton of hazardous waste transported off the site, excluding the

water content of any waste that is transported to another facility under the ownership of the generator for the purposes of waste treatment or recycling.

SECTION 3. Section 455B.424, subsection 2, Code 1993, is amended to read as follows:

2. A person who generates hazardous waste or owns or operates a facility which treats or disposes of hazardous waste at the facility shall pay the following fees:

a. ~~Forty One-hundred dollars~~ for each ton of hazardous wastes placed, deposited, dumped, or disposed of onto or into the land at a disposal facility ~~in Iowa~~.

b. Fifty dollars for each ton of hazardous waste which is treated by incineration.

~~b-c.~~ Two Five dollars for each ton of hazardous waste destroyed or treated at the generator's site or at the disposal facility to render the hazardous waste non-hazardous.

~~e-d.~~ Two dollars for each ton of hazardous waste transported off the site for recycling at another facility.

SECTION 4. Section 455B.424, subsection 5, Code 1993, is amended to read as follows:

5. In addition to other fees imposed by this section, a person that is required to obtain a United States environmental protection agency identification number shall pay the following fees:

a. If the person generates more than one thousand kilograms of hazardous waste per month, a fee of ~~two hundred fifty~~ one thousand dollars.

b. If the person generates hazardous waste but does not generate more than one thousand kilograms of hazardous waste per month, a fee of ~~twenty-five~~ one hundred dollars.

c. If the person is a transporter of hazardous waste, a fee of ~~twenty-five~~ one thousand dollars.

d. If the person operates a hazardous waste treatment, storage, or disposal facility, a fee of ~~twenty-five~~ one thousand dollars.

SECTION 5. Section 455B.424, subsection 7, Code 1993, is amended to read as follows:

7. A person required to pay fees by this section who fails or refuses to pay the fees imposed by this section shall be assessed a penalty of ~~fifteen~~ five percent of the fee due, for each month the fee is overdue. The penalty shall be paid in addition to the fee due.

SECTION 6. Section 455B.424, subsection 8, Code 1993, is amended to read as follows:

8. Moneys collected or received by the department pursuant to this section shall be transmitted to the treasurer of state for deposit in the hazardous waste substance remedial fund.

Director Wilson reviewed the details of this proposal.

Brief discussion followed.

Motion was made by William Ehm to approve the legislative proposal to Fund the Waste Reduction Assistance Program. Seconded by Charlotte Mohr. Motion carried unanimously

PROPOSAL APPROVED AS PRESENTED

(5) Corrective Amendment to Solid Waste Tonnage Fee Language

During the 1992 legislative session, new language was introduced which would require landfill operators to charge higher tonnage fees to anyone hauling solid waste from outside the comprehensive plan area. However, the language needs fine tuning to accomplish legislative intent, which is to provide a financial incentive for disposing of waste within the comprehensive plan area.

PROPOSED LEGISLATIVE LANGUAGE:

SECTION 1. Section 455B.310, subsection 2, paragraph a, Code 1993, is amended to read as follows:

a. ~~The tonnage fee is twenty-five cents per ton of solid waste. However, f~~For the year beginning July 1, 1988, the tonnage fee is one dollar and fifty cents per ton of solid waste and shall increase annually in the amount of fifty cents per ton through July 1, 1992. A city, county, or private agency which files a comprehensive plan to operate a sanitary landfill under section 455B.306 and which accepts solid waste from a service areaa not included in but contiguous to the service area included in the comprehensive plan, shall charge a tonnage tipping fee for the disposal of that solid waste which is at least the amount of the current ~~tonnage-tipping~~ fee charged by the sanitary landfill representing the service area from which the solid waste originated, whichever amount is greater. A sanitary landfill which accepts solid waste from a service area not included in and not contiguous to the service area included in the comprehensive plan shall charge a tonnage tipping fee for the disposal of the solid waste which is three hundred percent of the tipping fee otherwise ~~established in this section~~ otherwise charged by the landfill. The additional fee charged and the moneys collected shall be used in accordance with section 455E.11, subsection 2, paragraph "a", subparagraph (11), subparagraph subdivision (b).

Director Wilson requested that this proposal be deleted from the legislation package as the department currently has similar authority.

The consensus of the Commission was to delete the Corrective Amendment to Solid Waste Tonnage Fees proposal from the legislation package.

PROPOSAL DELETED FROM LEGISLATION PACKAGE
--

(6) Waste Oil Collection

Current state law does not ensure reasonable access by the public to proper facilities for disposal of this waste. Some options for providing more access are to require certain retailers to collect it, or to require every county and/or city above a certain population to provide at least one collection site.

PROPOSED LEGISLATIVE LANGUAGE (three options):**OPTION 1.**

SECTION 1. Section 455D.13, subsection 2, Code 1993, is amended to read as follows:

2. A person offering for sale or selling oil at retail in the state, if the person also provides motor vehicle repair or maintenance services, or sells or offers for sale motor vehicle fuel, or motor vehicle maintenance products shall do the following:

a. Accept at the point of sale, waste oil from customers, ~~or~~ and post notice of ~~locations where~~ stating that a customer may dispose of waste oil at that location.

b. Post written notice that it is unlawful to dispose of waste oil in a sanitary landfill.

SECTION 2. Section 455D.13, Code 1993, is amended by adding the following new subsection.

NEW SUBSECTION. 3. A person offering for sale or selling oil at retail in the state, other than persons listed in subsection 2, shall do the following:

a. Accept at the point of sale, waste oil from customers, or post notice of locations where a customer may dispose of waste oil.

b. Post written notice that it is unlawful to dispose of waste oil in a sanitary landfill.

OPTION 2

SECTION 1. Section 455D.13, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 3. Each county in the state shall provide a location where residents may dispose of waste oil.

OPTION 3.

SECTION 1. Section 455D.13, Code 1993 is amended by adding the following new subsection:

NEW SUBSECTION. 3. Every county in the state, and each city with a population greater than 5,000, shall provide a location where residents may dispose of waste oil.

Director Wilson reviewed this proposal noting that the Commission favored Option 1 at last month's meeting.

Charlotte Mohr asked that the words "or storm sewers" be added to the end of the sentence under Option 1, Section 1, 2b.

William Ehm asked if a person who changes their oil at home could they take the used oil to a facility that sells oil.

Mr. Paulin stated that if a facility **changes oil** or **sells oil** they would have to accept used oil.

Discussion followed regarding retailer's fear of receiving contaminated oil.

Clark Yeager asked why the underlined portion was added to number 2, under Section 1, of Option 1.

Mr. Paulin replied that it was done at the request of the Commission last month to expand the options.

Chairperson Hartsuck clarified that the consensus of the Commission last month was that they wanted any retailer who **sells oil** to accept used oil.

The consensus of the Commission was to strike the underlined portion of Section 1, number 2, under Option 1.

Motion was made by William Ehm to approve Option 1 of the Waste Oil Collection bill, with the deletion of the underlined portion of Section 1, number 2. Seconded by Nancylee Siebenmann. Motion carried unanimously.

PROPOSAL APPROVED AS AMENDED

(7) Bottle Bill Corrections

Make the following corrections, to reflect the types of containers now marketed, and provide consistency in implementation of the program.

(1) Change 455C.1 definitions, to include non-alcoholic beers and wines, and non-carbonated juices and waters. These newly marketed products are sold in the same types of containers that regulated beverages are contained in.

(2) Modify 455C.14, which deals with flattened metal beverage containers, by deleting references to metal and "beer" distributors. This would require that all beverage

distributors provide for collection of containers, and all containers except broken glass would be accepted.

PROPOSED LEGISLATIVE LANGUAGE:

SECTION 1. Section 455C.1, subsection 1, Code 1993, is amended to read as follows:

1. *"Beverage"* means wine as defined in section 123.3, subsection 7, alcoholic liquor as defined in section 123.3, subsection 8, beer as defined in section 123.3, subsection 10, low or non-alcoholic beers and wines, wine coolers, mineral water, soda water and similar carbonated soft drinks in liquid form, or non-carbonated soft drinks, waters and juices packaged in volumes of less than 32 ounces and intended for human consumption.

SECTION 2. Section 455C.14, Code 1993, is amended to read as follows:

1. If the refund value indication required under section 455C.5 on an empty nonrefillable metal beverage container is readable but the redemption of the container is lawfully refused by a dealer or person operating a redemption center under other sections of this chapter or rules adopted pursuant to these sections, the container shall be accepted and the refund value paid to a consumer as provided in this section. Each ~~beer~~ distributor selling nonrefillable metal beverage containers in this state shall provide individually or collectively by contract or agreement with a dealer, person operating a redemption center or another person, at least one facility in the county seat of each county where refused empty nonrefillable metal beverage containers having a readable refund value indication as required by this chapter are accepted and redeemed. In cities having a population of twenty-five thousand or more, the number of the facilities provided shall be one for each twenty-five thousand population or a fractional part of that population.

2. A ~~beer~~ distributor violating this section is guilty of a simple misdemeanor.

Director Wilson reviewed the details of this proposal.

Gary Priebe distributed a copy of a list of beverage containers, from his local Fareway Store, that would be included under this bill. He added that the store indicated they would have to build an additional building just to store the empty containers.

Nancylee Siebenmann stated that she thought this was a real good idea when it first came up, but since then she has spent some time with the local Hy-Vee and Mid-Continent Bottlers and now feels it should be reconsidered. She added that sanitation will be a deplorable problem due to storage conditions if this proposal is passed. She also expressed concern with costs to bottlers as well as consumers.

Motion was made by Nancylee Siebenmann to delete the Bottle Bill Corrections proposal from the legislation package. Seconded by Charlotte Mohr.

Brief Discussion followed.

Motion carried unanimously

PROPOSAL DELETED FROM LEGISLATION PACKAGE

(8) Include Collection of Recyclables as a Requirement in Construction

This proposal would require that new, multi-family and business construction provide facilities for the collection of recyclables, if they provide for the collection of solid waste. Collection could include, but would not have to be limited to, paper, plastic, glass, and metal.

PROPOSED LEGISLATIVE LANGUAGE:

SECTION 1. Section 103A.8, Code 1993, is amended by adding the following new subsection`.

NEW SUBSECTION. Require that all multi-family construction (24 or more units), and commercial construction providing space for 50 or more employees, which is built on or after January 1, 1995, provide facilities for and the collection of recyclables, if the collection of solid waste is provided for. Collection shall include, but is not limited to, paper, plastic, glass, and metal. The commissioner shall consult with the department of natural resources in establishing this requirement.

Director Wilson reviewed the details of this proposal.

Brief discussion followed.

Motion was made by William Ehm to approve the legislative proposal to Include Collection of Recyclables as a Requirement in Construction. Seconded by Rozanne King. Motion carried unanimously.

PROPOSAL APPROVED AS PRESENTED

(9) Minimum Recycled Content of Newsprint

Require newspapers to meet certain percentages of recycled content newsprint in their operations. In addition, all advertising inserts would be required to be printed on paper with recycled content.

PROPOSED LEGISLATIVE LANGUAGE:

SECTION 1. Chapter 455D, Code 1993, is amended by adding the following new section.

NEW SECTION. Newsprint - minimum recycled content.

1. In this section unless the context otherwise requires:
 - a. *"Recycled fiber content"* means a paper product containing secondary and postconsumer material.
 - b. *"Postconsumer material"* means only those products generated by a business or consumer which have served their intended end uses, and which have been separated or diverted from solid waste for the purposes of collection, recycling, and disposition. Postconsumer material does not mean manufacturing wastes.
 - c. *"Secondary material"* means fragments of finished products or finished products of a manufacturing process which has converted a resource into a commodity of real economic value, and includes postconsumer material but does not include excess virgin resources of the manufacturing process.
2. Beginning January 1, 1994, all newspapers in this state with an average daily circulation on days published of more than ten thousand copies, and newspaper advertising inserts, shall be printed on paper with recycled fiber content. The total recycled content by weight shall be a minimum of 20 percent, with at least 10 percent consisting of postconsumer material. Beginning January 1, 2000, the total recycled content by weight shall be a minimum of 50 percent, with at least 20 percent consisting of postconsumer material.
3. A newspaper may apply to the department for a temporary exemption from these requirements if, prior to January 1, 1993, the newspaper has signed a long term contract with a newsprint supplier that is unable to provide newsprint with the minimum recycled fiber content stated in subsection 2. Any exemption granted by the department shall be valid for the duration of the existing contract, and shall not be renewed.
4. After January 1, 1995, each newspaper publisher in the state with an average daily distribution on days published of more than ten thousand copies shall file a statement with the department certifying the total number of tons of newsprint used during the past calendar year, and the average recycled content of such newsprint. The statement shall declare whether the standards in subsection 2 have been met for the past year, and if not met, shall contain a statement explaining why the newspaper publisher failed to meet the target percentages.

Director Wilson reviewed details of this proposal.

William Ehm commented that he recognizes that industry is making strides in the area of using recycled newsprint but he feels some of it is the result of mandates implemented by other states. He added that if publishers are already working toward these goals he does not see it as a big problem to them.

Motion was made by William Ehm to approve the legislative proposal for Minimum Recycled Content of Newsprint.

Nancylee Siebenmann commented that if something is being done reasonably well and moving toward a certain goal, she would hate to add mandates. She added that with industry moving in the right direction she would not be in favor of legislating it at this time.

Chairperson Hartsuck commented that 7.5% usage of recycled newsprint is not great progress and it occurred only after the perception that mandates would be applied if it was not done on a voluntary basis.

Commissioner Ehm's motion failed for lack of a second.

Motion was made by Nancylee Siebenmann to delete the proposal for Minimum Recycled Content of Newsprint from the legislation package and that the Commission encourage, by means of a letter, the newspaper industry to achieve major accomplishments toward their goals within the next year. Seconded by Clark Yeager.

Chairperson Hartsuck requested a roll call vote. "Aye" votes were cast by Commissioners Priebe, Siebenmann, Yeager, Britt, King, and Mohr. "Nay" votes were cast by Commissioners Ehm and Hartsuck. Motion carried on a vote of 6-Aye to 2-Nay.

PROPOSAL DELETED FROM LEGISLATION PACKAGE

(10) Expanding Procurement Policies to Include Local Governments

Require local governments to establish procurement policies which encourage use of products with recycled content. An extension of this would be to require that local governments also institute office recycling programs.

PROPOSED LEGISLATIVE LANGUAGE:

SECTION 1. Chapter 279, Code 1993, is amended by adding the following new sections.

NEW SECTION. Procurement policies.

1.a. The board of directors of each school district shall review and, where necessary, revise contract specifications used by school districts to procure products including, but not limited to paper, lubricating oils, retread tires, building insulation materials, and recovered materials from waste tires to ensure that the specifications allow the procurement of items containing recovered materials. Specifications shall be revised

if they restrict the use of alternative materials, exclude recovered materials, or require performance standards which exclude items containing recovered materials unless the office seeking the item can document that the use of recovered materials will hamper the intended use of the item.

b. The board of directors shall require that each bid received for the purchase of items purchased by the school district includes a product content statement which provides the percentage of the content of the item which is reclaimed material.

c. The board of directors shall require that as a condition of a contract for the purchase of items by the school district, the person submitting the proposed contract for purchase of items shall receive information regarding the availability of an on-site, nonregulatory, review of waste management of the facility of the person submitting the proposed contract by the waste reduction center at the university of northern Iowa, or the department of natural resources.

2a. The board of directors of each school district shall review and, where necessary, revise contract specifications for public improvements to allow the use of items containing recovered materials, including but not limited to lubricating oils, retread tires, building insulation materials, and recovered materials from waste tires. Specifications shall be revised if they restrict the use of alternative materials, exclude recovered materials, or require performance standards which exclude items containing recovered materials unless it can be documented that the use of recovered materials will hamper the intended use of the public improvement.

b. The board shall require that each bid received includes statement which indicates any materials used which have reclaimed or recovered content.

NEW SECTION. Office Recycling program.

By July 1, 1994, all school districts shall establish office recycling programs, including but not limited to paper recycling.

SECTION 1. Section 331.341, Code 1993, is amended by adding the following new subsection.

NEW SUBSECTION. a. The board shall review and, where necessary, revise contract specifications used by county offices for public improvements or to procure products, to allow the use of items containing recovered materials, including but not limited to paper, lubricating oils, retread tires, building insulation materials, and recovered materials from waste tires. Specifications shall be revised if they restrict the use of alternative materials, exclude recovered materials, or require performance standards which exclude items containing recovered materials unless the office seeking the item, or the person submitting a bid, can document that the use of recovered materials will hamper the intended use of the product or public improvement.

b. The board shall require that each bid received for the purchase of items purchased by the county includes a product content statement which provides the percentage of the content of the item which is reclaimed material.

c. The board shall require that each public improvement bid received includes statement which indicates any materials used which have reclaimed or recovered content.

d. The board shall require that as a condition of a contract for the purchase of items by the county, the person submitting the proposed contract for purchase of items shall receive information regarding the availability of an on-site, nonregulatory, review of waste management of the facility of the person submitting the proposed contract by the waste reduction center at the university of northern Iowa, or the department of natural resources.

SECTION 2. Section 331.361, Code 1993, is amended by adding the following new subsection.

NEW SUBSECTION. By July 1, 1994, all county offices shall establish office recycling programs, including but not limited to paper recycling.

SECTION 3. Chapter 384, Division VI, Code 1993, is amended by adding the following new section.

NEW SECTION. a. The council shall review and, where necessary, revise contract specifications for public improvements to allow the use of items containing recovered materials, including but not limited to lubricating oils, retread tires, building insulation materials, and recovered materials from waste tires. Specifications shall be revised if they restrict the use of alternative materials, exclude recovered materials, or require performance standards which exclude items containing recovered materials unless it can be documented that the use of recovered materials will hamper the intended use of the public improvement.

b. The council shall require that each bid received includes statement which indicates any materials used which have reclaimed or recovered content.

SECTION 4. Chapter 364, Code 1993, is amended by adding the following new sections.

NEW SECTION. Office Recycling program.

By July 1, 1994, all city offices shall establish office recycling programs, including but not limited to paper recycling.

NEW SECTION. Procurement policies.

a. The council shall review and, where necessary, revise contract specifications used by city offices to procure products including, but not limited to paper, lubricating oils, retread tires, building insulation materials, and recovered materials from waste tires to ensure that the specifications allow the procurement of items containing recovered materials. Specifications shall be revised if they restrict the use of alternative materials, exclude recovered materials, or require performance standards which exclude items

containing recovered materials unless the office seeking the item can document that the use of recovered materials will hamper the intended use of the item.

b. The board shall require that each bid received for the purchase of items purchased by the city includes a product content statement which provides the percentage of the content of the item which is reclaimed material.

c. The council shall require that as a condition of a contract for the purchase of items by the city, the person submitting the proposed contract for purchase of items shall receive information regarding the availability of an on-site, nonregulatory, review of waste reduction management of the facility of the person submitting the proposed contract by the waste center at the university of northern Iowa, or the department of natural resources.

Director Wilson explained the details of this proposal.

Discussion took place regarding retread tires.

Motion was made by William Ehm to approve the proposal to Expand Procurement Policies to Include Local Governments. Seconded by Nancylee Siebenmann. Motion carried unanimously.

PROPOSAL APPROVED AS PRESENTED

(11) Stormwater Permit Authority Technical Correction

Add Part "1" to 455B.103A (stormwater general permit enforcement authority). The number "1" was inadvertently left out of language that was in the department's appropriations bill this past session.

PROPOSED LEGISLATIVE LANGUAGE:

SECTION 1. Section 455B.103A, subsection 5, Code 1993, is amended to read as follows:

5. The enforcement provisions of division III, part 1 of this chapter, apply to general permits for stormwater discharge.

Director Wilson stated that no action is needed on this proposal as it is merely a matter of housekeeping.

NO ACTION NEEDED

(12) Establishing Fees on Pesticides and Fertilizers to Support Water Treatment Costs

Additional standards and monitoring requirements for synthetic organic contaminants including pesticides as well as the presence of nitrate in drinking water places a significant burden on water supplies for both monitoring and treatment costs. The cost of the treatment is high, and is borne by the consumers. It has been suggested that it might be appropriate for sources of the contaminants to share in at least the capital cost of the added treatment. The language below provides for increased fees on the registration of pesticides by manufacturers as well as on the sale of fertilizer to generate the funds needed to provide for the cost share. Since the revenues from the fees will be received over time, the plan calls for the reimbursement of capital costs up to 50% with the details of the reimbursement left to rule. A specific plan for disbursement would further complicate a chapter that is already quite difficult to understand and would make it more difficult to deal with the different treatment that may be required for each facility within the context of a 50% cost share.

PROPOSED LEGISLATIVE LANGUAGE:

SECTION 1. Section 206.12, subsection 3, Code 1993, is amended to read as follows:

3. The registrant, before selling or offering for sale any pesticide for use in this state, shall register each brand and grade of such pesticide with the secretary upon forms furnished by the secretary, and the secretary shall set the registration fee annually at ~~one-fifth~~ two-fifths of one percent of gross sales within this state with a minimum fee of two hundred fifty dollars and a maximum fee of ~~three-ten~~ thousand dollars for each and every brand and grade to be offered for sale in this state except as otherwise provided. The annual registration fee for products with gross annual sales in this state of less than one million five hundred thousand dollars shall be the greater of two hundred and fifty dollars or ~~one-fifth~~ two-fifths of one percent of the gross annual sales as established by affidavit of the registrant. The secretary shall adopt by rule exemptions to the minimum fee. Fifty dollars of each fee collected shall be deposited in the treasury to the credit of the pesticide fund to be used only for the purpose of enforcing the provisions of this chapter and the remainder of each fee collected shall be placed in the agriculture management account of the groundwater protection fund.

SECTION 2. Section 200.8, subsection 4, Code 1993, is amended to read as follows:

4. In addition to the fees imposed under subsection 1, a groundwater protection fee shall be imposed upon nitrogen-based fertilizer. The fee shall be based upon the percentage of actual nitrogen contained in the product. An eighty-two percent nitrogen solution shall be taxed at the rate of one dollar and fifty cents ~~seventy-five cents~~ per ton. Other nitrogen-based product formulations shall be taxed on the percentage of actual nitrogen contained in the formulations with the eighty-two percent nitrogen solution serving as the base. The

fee shall be paid by each licensee registering to sell fertilizer to the secretary of agriculture. The fees collected shall be deposited in the agriculture management account of the groundwater protection fund. The secretary of agriculture shall adopt rules for the payment, filing, and collection of groundwater protection fees from licensees in conjunction with the collection of registration and inspection fees. The secretary shall, by rule allow an exemption to the payment of this fee for fertilizers which contain trace amounts of nitrogen.

SECTION 3. Section 455E.11 subsection 2(b)(3), Code 1993, the first unnumbered paragraph is amended to read as follows:

~~Of the remaining moneys in the account:~~ Fifty percent of the remaining moneys in the account are appropriated to municipal surface water supplies for capital costs of improvements to provide treatment to reduce levels of nitrates and pesticides. The funds shall be apportioned to eligible water supplies in a manner provided by rule for reimbursement of up to 50% of the total capital cost. The other 50% of the moneys which remain in the account shall be divided in the following manner.

Director Wilson reviewed details of this proposal.

Gary Priebe stated there is documented evidence of 5.6 ppm of nitrate in the water before 1925, before nitrogen fertilizer was ever invented. He stated that would prefer further education and he would not be in favor of this proposal.

Nancylee Siebenmann stated that there is a need to clean up all pesticides and fertilizers, not just nitrates and nitrogen. She added that if there is going to be a need to do clean up, the burden should be placed on the people who utilize or manufacture the products.

Charlotte Mohr stated that she agrees with Commissioner Priebe that education rather than taxation should be pursued.

Clark Yeager commented that it doesn't address where the City of Des Moines is taking nitrate out of the water and then turning around and putting it back in the river.

Mr. Stokes stated that if the elevated nitrates were not there to cause potential for violation of the Safe Drinking Water Act, then Des Moines would not need the system to remove the nitrates. He added that although they do discharge the flush water from the cleansing system back into the river system, it breaks down through the natural process.

Motion was made by Nancylee Siebenmann to approve the proposal to Establish Fees on Pesticides and Fertilizers to Support Water Treatment Costs. Motion failed for lack of a second.

PROPOSAL FAILED TO PASS

(13) Public Disclosure of Inert Ingredients in Pesticides

Currently, only the active ingredient (defined at the federal level as the substance that kills the target species) and a limited number of toxic inerts are listed on pesticide ingredient labels. There are hundreds of inert ingredients which are used in pesticides, many of which are toxic to humans, that are not listed on the labels because they do not meet the federal definition of "active ingredient". The following proposal would allow the public, by written request, to obtain a list of all the ingredients in a pesticide.

PROPOSED LEGISLATIVE LANGUAGE (two options):**OPTION 1**

SECTION 1. Section 206.12, subsection 2, paragraph c, Code 1993 is amended to read as follows:

c. An ingredient statement in which the accepted common name and percentage by weight of each active ingredient is listed as well as the percentage of inert ingredients in the pesticides. A separate inert ingredient statement containing the common name of each inert ingredient listed in rank order according to the weight of each inert ingredient in the pesticide shall also be submitted to the secretary. Except as required by subsection 4, the registrant is not required to state the percentage composition or specific weight of any inert ingredient within a pesticide. The information required by this paragraph shall be submitted in a manner and according to procedures specified by the secretary.

~~Upon written request, a person may obtain a copy of the ingredient statement and inert ingredient statement from the secretary. by the director of the department of natural resources, the secretary shall provide a copy of the ingredient statement and inert ingredient statement to the department. Upon written request by the director of the center for health effects of environmental contamination, the secretary shall provide a copy of the ingredient statement and inert ingredient statement to the center.~~

~~From on and after July 1, 1990, to December 31, 1991, the identity of an inert ingredient in a specific pesticide shall be treated as a confidential trade secret which is not subject to release under chapter 22.~~

~~On and after January 1, 1992, the identity of an inert ingredient in a specific pesticide shall be treated as a confidential trade secret if the following two conditions are met: the registrant states, at the time of registration, that the inert ingredient is a confidential trade secret and In addition, the registrant shall do one of the following: certifies one of the following:~~

~~—— (1) The registrant Provide has provided to any data base system used by a poison control center operating in this state the information required by an attending physician to treat a patient for exposure of adverse reaction to the registrant's product, including the identification of all ingredients which are toxic to humans.~~

~~—— (2) The registrant oOperates an emergency information system as provided in section 139.35 that is available to poison control centers twenty-four hours a day every day of the year. The emergency information system must provide information to medical professionals required for the sole purpose of treating a specific patient for exposure or adverse reaction to the registrant's product, including the identification of all ingredients which are toxic to humans, and toxicological and medical management information.~~

Poison control centers may share the information provided by the registrant by an attending physician for the purpose of treating a specific patient exposed to the registrant's product. ~~The secretary, the director of the department of natural resources, and the director of the center for health effects of environmental contamination shall treat the presence of any inert ingredient in a particular pesticide that meets the two conditions as a confidential trade secret which is not subject to release under chapter 22. This section does not prohibit research or monitoring of any aspect of any inert ingredient. This section does not prohibit the public disclosure of research, monitoring, published or summary data relative to any inert ingredient so long as such disclosure does not link an inert ingredient to a particular brand of pesticide registered in the state.~~

~~This section shall not be construed to prohibit the release of information independently obtained from a source other than registrations filed under this chapter which links an inert ingredient to a pesticide registered in this state.~~

OPTION 2

SECTION 1. Section 206.12, subsection 2, paragraph c, Code 1993 is amended to read as follows:

c. An ingredient statement in which the accepted common name and percentage by weight of each active ingredient is listed as well as the percentage of inert ingredients in the pesticides. A separate inert ingredient statement containing the common name of each inert ingredient listed in rank order according to the weight of each inert ingredient in the pesticide shall also be submitted to the secretary. Except as required by subsection 4, the registrant is not required to state the percentage composition or specific weight of any inert ingredient within a pesticide. The information required by this paragraph shall be submitted in a manner and according to procedures specified by the secretary.

~~Upon written request, a person may obtain the ingredient statement and inert ingredient statement from the secretary. by the director of the department of natural resources, the secretary shall provide a copy of the ingredient statement and inert ingredient statement to the department. Upon written request by the director of the center for health effects of~~

~~environmental contamination, the secretary shall provide a copy of the ingredient statement and inert ingredient statement to the center.~~

~~From on and after July 1, 1990, to December 31, 1991, the identity of an inert ingredient in a specific pesticide shall be treated as a confidential trade secret which is not subject to release under chapter 22.~~

~~On and after January 1, 1992, the identity of an inert ingredient in a specific pesticide shall be treated as a confidential trade secret if the following two conditions are met: the registrant states, at the time of registration, that the inert ingredient is a confidential trade secret; and the registrant certifies one of the following:~~

~~—— (1) The registrant has provided to any data base system used by a poison control center operating in this state the information required by an attending physician to treat a patient for exposure of adverse reaction to the registrant's product, including the identification of all ingredients which are toxic to humans.~~

~~—— (2) The registrant operates an emergency information system as provided in section 139.35 that is available to poison control centers twenty four hours a day every day of the year. The emergency information system must provide information to medical professionals, required for the sole purpose of treating a specific patient for exposure or adverse reaction to the registrant's product, including the identification of all ingredients which are toxic to humans, and toxicological and medical management information.~~

~~Poison control centers may share the information provided by the registrant by an attending physician for the purpose of treating a specific patient exposed to the registrant's product. The secretary, the director of the department of natural resources, and the director of the center for health effects of environmental contamination shall treat the presence of any inert ingredient in a particular pesticide that meets the two conditions as a confidential trade secret which is not subject to release under chapter 22. This section does not prohibit research or monitoring of any aspect of any inert ingredient. This section does not prohibit the public disclosure of research, monitoring, published or summary data relative to any inert ingredient so long as such disclosure does not link an inert ingredient to a particular brand of pesticide registered in the state.~~

~~This section shall not be construed to prohibit the release of information independently obtained from a source other than registrations filed under this chapter which links an inert ingredient to a pesticide registered in this state.~~

Director Wilson reviewed details of this proposal.

Nancylee Siebenmann stated that she is strongly in favor of this proposal. She added that the public does have the right to know as it can impact the health of people.

Brief discussion followed.

Motion was made by William Ehm to approve Option 1 of the proposal for Public Disclosure of Inert Ingredients in Pesticides. Seconded by Nancy Lee Siebenmann.

Chairperson Hartsuck requested a roll call vote. "Aye" vote was cast by Commissioners Siebenmann and Ehm. "Nay" vote was cast by Commissioners Preibe, Yeager, Britt, King, Mohr, and Hartsuck. Motion failed on a vote of 2-Aye to 6-Nay.

PROPOSAL FAILED TO PASS

(14) Minimize Product Packaging and Increase Package Recyclability

Model legislation, developed by the Coalition of NE Governors, would require excess packaging to be reduced and encourage recyclability of packaging that is used. This legislation could be introduced as an augmentation to current waste reduction efforts in Iowa.

NOTE: Upon further review, the department estimates that this proposal will require an increase in staff resources to implement. It is estimated that an additional two FTEs will be necessary to carry out the program.

PROPOSED LEGISLATIVE LANGUAGE:

SECTION 1. Chapter 455D, Code 1993, is amended by adding the following new section.

NEW SECTION. 455D.20 **Packaging - reduction, reuse, and recycling.**

1. The general assembly finds that packaging comprises almost one-third of the municipal solid waste stream and efforts to reduce packaging waste and increase the reuse and recycling of packages and packaging components will contribute significantly towards achieving the state's waste management goals.

2. As used in this section, unless the context otherwise requires:

a. "Affected party" means a manufacturer, distributor or retailer that is subject to waste reduction standards and goals under this section.

b. "Authorized official" means a company Chief Executive officer or his or her designee.

c. "Base year" means January 1, 1988, or a subsequent point in time closest to January 1, 1988 for which a record of data exists for the package or packaging component. For packages or packaging components not existing on January 1, 1988, the base year shall be when the package or packaging component is first sold, distributed, or provided for promotional purposes.

d. *"Company"* means an association of persons or individuals or any partnership, association, firm, trust, corporation, department, agency, group or public body, for carrying on a commercial or industrial enterprise. For the purposes of this section, any company with its own corporate structure including at least a president, whether or not affiliated with a parent company, shall be considered an individual company.

e. *"Designated representative"* means a responsible person or official authorized by the affected party to represent the affected party in matters pertaining to the holding, transfer or disposition of tradeable credits, and the submission of and compliance with compliance plans for the affected party.

f. *"Distributor"* means any person who takes title to or delivery from the manufacturer of a package, packaging component or product for promotional purposes or for sale.

g. *"End product"* means only those items that are designed to be used until disposal; items designed to be used in production of a subsequent item are excluded.

h. *"Goal"* means total package material reduction desired by a specific date but which is not yet a legally required standard.

i. *"Inconsequential or Insubstantial part"* means adhesives, coatings, liners, and readily removable closures (including, but not limited to caps and lids), connectors (including, but not limited to string, rope, ribbons, and tape), labels, additives added to materials for purposes such as imparting color, allowing for printing, and providing strength, but which alone are not made into packaging.

j. *"Infrastructure"* means that 65% of the population in the state has access to an approved materials recovery program.

k. *"Intermediate package"* means a wrap, box or bundle that contains one or more unit packages of identical items.

l. *"Manufacturer"* means any person who manufactures a package or packaging component.

m. *"Material Category"* means those categories of materials that include, but are not limited to glass, paper, paper board, plastic, steel, aluminum and wood.

n. *"Materials recovery"* means the separation, collection and processing of waste materials for reuse or recycling.

o. *"Organizational unit"* means any operating division, subsidiary, or department of a company which is included in the company's package reduction plan.

p. *"Package"* means a container or receptacle as defined in section 455D.19, subsection 2, paragraph c.

q. *"Packager"* means one of the following:

(i) in cases where products are placed in packaging prior to their entry into the state, any or all of the following persons shall be considered a packager: the first person to receive possession of the product in the state; the person who places a product in packaging; the distributor or wholesaler who causes products to be brought into the state.

(ii) in cases where products are placed in packaging within the state prior to retail sale, the packager is the person who places a product in packaging.

(iii) in cases where products are placed in packaging at the point of retail sale, the packager is the retailer. Retailers with fewer than ten employees are not considered packagers for the purposes of this section.

r. *"Packaging component"* means part of a package as defined in section 455D.19, subsection 2, paragraph d.

s. *"Person"* means any individual, partnership, association, firm, trust, company, corporation, department, agency, group or public body.

t. *"Post-consumer material"* means only those waste products generated by a business or consumer that have served their intended end uses, and which have been separated or diverted from solid waste. Wastes generated during production of an end product are excluded.

u. *"Pre-consumer material"* means any material generated during any step in the production of an end product, but does not include any waste material or by-product that can be reused or has been normally reused within the same plant or another plant of the same parent company. Pre-consumer material for the paper industry does not include mill broke (wet or dry), rejected unused stock, obsolete inventories, butt rolls, or other paper waste generated by paper or paper product mills. Waste generated by converting operations that are used by the same parent company, whether for the same or different products, are also excluded.

v. *"Product"* means anything contained within a package; a package sold or provided to a company by a company for the purpose of containing a product; or any packaging component sold or provided to the company for the purposes of manufacturing a package.

w. *"Product categories"* means all products of a common form, function and use.

x. *"Product manufacturer"* means the person responsible for processing and packaging any consumer goods or other products for distribution or sale within the state.

y. *"Recycled content"* means percentage by weight of goods, supplies, equipment, materials, or products containing recycled materials.

z. *"Recycled material"* means material that would otherwise be destined for disposal as solid waste, and is recovered and refabricated into marketed end products. This includes, but is not limited to, post consumer material, industrial scrap material, overstock or obsolete inventories from distributors, wholesalers, and other companies, but not including materials and by-products generated from and commonly reused within an original manufacturing process.

aa. *"Refillable/Reuseable package"* means the original package or material is intended to be refilled or reused for its original purpose a minimum of five times in a program established by the manufacturer, distributor, or retailer.

bb. *"Retailer"* means any person who sells or offers for retail sale packaged products or packaging components for use or consumption off the premises.

cc. *"Shipping container"* means a receptacle capable of closure including but not limited to a bag, barrel, basket, box, can, carton, crate, cylinder, drum, envelope, hamper, pail or tube.

dd. *"Source reduction"* means the elimination of packages and packaging components or the reduction of the weight of packages and packaging components.

ee. *"Standard"* means the achievement of a specific percentage reduction by a specific date expressed in short tons, in the amount of solid waste resulting from the discards of packages and packaging components used by manufacturers, distributors and retailers to convey the products they sell in the state. Such reduction may be accomplished by source reduction, recovery and reuse, and/or recycling.

ff. *"Use or Usage"* means the quantity or amount of product employed or consumed in a single standard usage such as a standard serving, manufacturer's recommended usage, or adult dosage. Concentrates and mixes shall be measured in terms of actual final product usage.

gg. *"Waste reduction target"* means the amount of an affected party's packages or packaging components that must be physically reduced through such means as source reduction, reuse and recycling, or must be comprised of recycled content, or some combination thereof, in order to meet a specific waste reduction standard.

3. *Applicability.* The following subsections apply to all packages and packaging components sold or used in the state and that subsequent to January 1, 1988, have been discarded as waste products. This includes both new and existing products in existing categories, as well as new products in new categories.

4. *Waste Reduction Standard and Goal.*

a. On or after January 1, 1996, a manufacturer, distributor or retailer who offers a package or packaging component for sale, distribution or promotional purposes in the state shall meet a waste reduction standard of 15 percent by weight (expressed in short tons), by applying one of the waste reduction methods outlined in subsection 5. This paragraph applies to all packages and packaging components from existing product categories, and packages and packaging components from new product categories in a company prior to January 1, 1996.

b. On or after January 1, 1996, a manufacturer, distributor or retailer who offers a package or packaging component for sale, distribution or promotional purposes in the state shall meet the waste minimization standard by applying the package specific approach outlined in subsection 5. This paragraph applies to all packages and packaging components from a new product category which did not exist prior to January 1, 1996.

c. A waste reduction goal of 35 percent by weight (expressed in short tons) by January 1, 2000, is established for all packages and packaging components in accordance with the waste reduction methods outlined in subsection 5.

5. By January 1, 1996, the department, in consultation with industry, public interest groups and other states, shall review the year 2000 goal of 35 percent and determine if it is still appropriate or needs to be modified. Based upon this review, the department shall recommend to the general assembly, any changes to the goal deemed necessary.

6. *Implementation.* Manufacturers, distributors and retailers may choose one of the following approaches to comply with this section. A company must choose one

approach or the other, and may not combine aspects or provisions from both unless otherwise stated.

a. Company-wide approach. A minimum waste reduction standard is stated as a percentage of the solid waste resulting from discarded packages and packaging components used by manufacturers, distributors and retailers to convey products sold or distributed in Iowa. Each company may utilize any combination of source reduction, reuse, recyclability or recycled content to meet the waste reduction standard established in subsection 4. Recycled content may be substituted for actual reduction in package tonnage produced by a company. Waste reduction efforts taken since January 1, 1988, if they can be documented, will count toward achievement of the standard. The 1996 standard, when converted to total company-wide waste reduction targets, shall be adjusted for usage increases or decreases in total output from the 1988 base year.

The above approach would apply to existing products in existing categories, as well as new products in existing categories. For new products in new categories developed during the period 1988 to 1996, the "specific package standard" (paragraph b below) method would be applied until December 31, 1996. Beginning on January 1, 1997, the company would apply the "company wide approach" described in paragraph (a) for meeting the waste reduction target. For new products in new categories developed during the period 1996 to 2000, the "specific package approach" would apply, following which the "company wide approach" would apply.

b. Specific package approach. Beginning January 1, 1996, manufacturers, distributors and retailers would be in violation of this section for packages or packaging components sold or distributed in Iowa that do not meet one of the following standards:

(1) source reduced packages or packaging components meeting one of the following criteria:

(a) package achieves at least a ten percent reduction in the ratio of package weight per use on and after January 1, 1996 when compared with an equivalent package produced by the same company in 1988; or

(b) in the case of material substitution, the package exceeds the criteria in (a) where the excess percentage reduction would equal or be greater than the difference between the recycling rate for the original package and the recycling rate for the current package; or

(c) for new product packages, if the new package is equal to other companies' packages that have been source reduced under (1) or (2) above, the source reduction standard will be considered met;

(2) packages or packaging components designed to be reused or refilled for their original purpose at least five times;

(3) packages or packaging components that consist of material that contain at least 25% postconsumer materials;

(4) packaging or packaging components which are being effectively recycled at a rate of at least 25% by weight; or

(5) packages or packaging components made of materials which are being effectively recycled at a rate of at least 25%.

7. *Additional incentive for source reduction.* For companies choosing source reduction over other waste management alternatives, an additional credit toward overall packaging waste reduction goal shall be given as follows:

(a) Source reduction only. Package material source reductions will be credited towards the overall waste reduction goal at a rate of 1.5 times the weight of the material eliminated. This rate applies to source reductions which do not maintain or enhance the recyclability of the material used in the source reduced package.

(b) Source reduction and recyclable packaging. Package reductions from material source reductions which also maintain or enhance the recyclability of the source reduced packages will be credited towards the total package reduction goal at a rate which is two times the actual weight of material reduced. This credit also applies to components which are completely eliminated.

8. *Recycling Infrastructure required.* No manufacturer, distributor or retailer of a package or packaging component shall be in violation of this section if the department determines that by January 1, 1996, fewer than 65% of the residents of the state have access to an approved materials recovery program. For the purposes of this subsection, materials recovery may include drop off sites, backyard or curbside collection, or return for deposit systems.

9. *Exemptions.*

(a) General Exemption. The following packages and packaging components that cannot be source reduced, reused, contain recycled content or be recycled due to regulatory health or safety requirements are exempt from compliance with the waste reduction standards set forth in subsection 4. The exemption shall apply until January 1, 1996, at which time the department shall review the need for the exemption and recommend any changes or removal of the exemption if appropriate.

(1) packaging components in the form of wraps or wrappers used to provide tamper-resistant or tamper-evident seals, or to provide child resistant closures in the interest of consumer safety. The exemption shall apply only to those components which constitute the tamper-resistant, tamper-evident, or child resistant closure;

(2) food, drug and cosmetic contact packages or packaging components made from a type of material for which the use of recycled material has not been approved by the United States food and drug administration as safe for use in food, drug and cosmetic contact packaging under the Food, Drug and Cosmetic Act;

(3) packages or packaging components used to contain toxic or hazardous materials and which are explicitly required by regulations promulgated under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA); and

(4) packages or packaging components which are explicitly required by any other federal laws or regulations, or by any health or safety laws or regulations in Iowa.

(b) **Hardship Exemption.** The department, upon written request by a company, may grant a hardship exemption from compliance with the waste reduction standards set forth in subsection 4. The exemption shall apply for two years, at which time the company may reapply for the hardship exemption. The decision on whether to grant the hardship exemption shall be based on the following criteria:

(1) the department, based on evidence provided by the requestor and any other data made available, finds that the requirement, when applied to a particular type of package or packaging component used in association with a specified product, would impose a hardship on the residents of the state;

(2) the requestor demonstrates hardship on the residents of the state. Increased cost alone shall not constitute a basis for making a finding of hardship. Hardship shall be established by providing clear and convincing evidence that the packaging or packaging component meets one or both of the following criteria:

(i) the manufacturer, distributor or retailer has exercised due diligence in trying to find or produce packages or packaging components that comply with the provisions of subsection 4 for the specified product and there is not such complying package or packaging components available for that product, and compliance with the provisions of subsection 4 would impose an undue hardship on the residents of the state;

(ii) the package or packaging component is made of relatively new material or combination of materials and such package or component represents an innovative approach to complying with the provisions of subsection 4 within two years, as determined by the department. The exemption period shall be extended an additional two years if the department determines, after reviewing evidence presented by the manufacturer, distributor or retailer, that substantial progress has been made toward achieving compliance;

(3) the applicant for an exemption submits a written request to the department which includes the following:

(i) the package or packaging component that is currently being used;

(ii) the alternative waste reduction methods considered;

(iii) the name, address, and telephone number of other manufacturers, distributors or retailers of the same or similar packages or packaging components;

(iv) reason(s) why the use of alternative waste reduction methods are not considered to be practicable at this time, including a comparison of costs and economic burden among the current package or components and potentially complying alternatives, and production changes needed and the expected costs of these changes.

(v) environmental consequences of using the existing nonconforming package or component should the exemption be granted;

(vi) the specific steps which are being and will be taken to overcome the impediments to the use of alternative packages or components not now considered to be practicable;

(vii) a schedule of actions, including dates, to achieve full compliance with the standard set forth in subsection 4.

A hardship exemption shall not be renewed if the basis for the hardship finding is no longer applicable. To allow the department to consider the most current technology and market conditions, no decision on an application shall be made prior to January 1, 1995.

10. *Compliance Assurance.*

(a) No manufacturer, distributor or retailer of a package or packaging component shall be deemed to have violated any provision of this section if such manufacturer, distributor, or retailer can show that the purchase, distribution or sale of a package or packaging component relied in good faith on the written compliance assurance of the manufacturer or distributor of such packaging or packaging component that such packaging or component met the requirements of this section.

(b) Written compliance assurance shall be provided by a manufacturer, distributor or retailer of a package or packaging component upon written request and shall indicate, at a minimum, the following:

(1) the specific package or packaging component for which compliance assurance is given;

(2) that the package or packaging component is in compliance with subsection 4 and under what specific waste reduction method, or that it is exempted and under what provision, including the expiration date of the exemption;

(3) the name of the company contact person, address and telephone number should clarification of the information be necessary, or to obtain additional information on the company's waste reduction program.

The written compliance assurance shall be provided on company letterhead, dated, and signed by the Chief Executive Officer of the company or designee.

11. *Planning, Record Keeping and Reporting Requirements.*

(a) Beginning January 1, 1994, and annually thereafter, every manufacturer, distributor and retailer of packages and packaging components shall have on file in its corporate offices a plan to achieve the 1996 packaging waste reduction standard established in subsection 4. The plan shall be signed by the chief executive officer or designee and shall contain, but not be limited to:

(1) A description of the organizational units covered by this plan;

(2) total packaging used and distributed annually in the base year by material category in short tons;

(3) actions taken to reduce packaging in the base year by material category;

(4) a description of how the packaging waste reduction standard established in subsection 4 will be measured;

(5) a definition of packaging that meets the exemption criteria in subsection 9 and will not be considered in measurement of the waste reduction standard;

(6) general strategies that will be pursued to achieve the packaging waste reduction standard established in subsection 4.

In preparing this plan, the base year shall be 1988 or an appropriate year thereafter.

(b) Each manufacturer, distributor and retailer shall maintain adequate records indicating progress implementing the plan required by paragraph (a) above. Such records shall be prepared at least annually, and shall include, but not be limited to:

(1) a description of actions taken to reduce, reuse, and recycle packages and packaging components;

(2) a description of actions to increase recycled content;

(3) calculation by material category of pounds of packages and packaging components per unit product;

(4) calculation by material category of percent recycled content used in total packages and packaging components.

Beginning January 1, 1994, and annually thereafter, each manufacturer, distributor and retailer shall prepare a report on progress made in implementing the plan prepared in accordance with paragraph (a).

12. *Access to plans, records and reports.*

(a) State authorized officials may request a copy of the plan maintained pursuant to subsection 11. Manufacturers, distributors and retailers shall furnish a copy of such documents within 30 days of receipt of a written request.

(b) Upon written request by any person, manufacturers, distributors and retailers shall make available for review a copy of the plan maintained pursuant to subsection 11. The plan shall be made available within 30 days of receipt of a written request. Manufacturers, distributors and retailers may charge fees commensurate with the costs of duplicating, handling, and mailing the documents.

13. *Administrative Enforcement.*

(a) A manufacturer, distributor or retailer who sells, offers for sale, distributes or promotes packages or packaging components that do not meet the waste reduction standard of 15 percent (by weight in short tons) in subsection 4, and is not exempted or has not been granted an exemption in accordance with subsection 9 is subject to an administrative penalty not to exceed ten thousand dollars per day for each violation. The total annual penalty liability for a manufacturer, distributor or retailer shall not exceed one hundred thousand dollars for each packager.

(b) To aid in the administration of enforcement actions, the department may issue subpoenas requiring the attendance and giving of testimony by witnesses and the production of books, papers and other evidence for any hearing, proceeding or investigation conducted or to be conducted before the commission.

Director Wilson reviewed details of this proposal.

Mr. Paulin commented that if the Commission is interested in this concept they might want to recommend that Iowa adopt it after it becomes effective in two states (with clout).

Lisa Smith, Legislative Liaison for DNR, stated that the coalition has a section that allows tradeable credit not included in this bill, otherwise this proposal is almost verbatim.

Nancylee Siebenmann asked if the Commission could modify and resubmit it after it is adopted by the other states. She related that leaving it exactly as it is might be dangerous.

Motion was made by William Ehm to approve the proposal to Minimize Product Packaging and Increase Package Recyclability with the provision that it not be implemented unless two other states adopt it. Seconded by Charlotte Mohr.

Chairperson Hartsuck requested a roll call vote. "Aye" vote was cast by Commissioners Britt, Ehm, King, Mohr, and Hartsuck. "Nay" vote was cast by Commissioners Siebenmann, Yeager, and Priebe. Motion carried on a vote of 5-Aye to 3-Nay.

PROPOSAL APPROVED AS AMENDED

Accountability for Solid Waste Tonnage Fees that Local Agencies Retain

As of FY 1993, local agencies are able to retain 95 cents of the \$4.25 tonnage fee for various purposes, such as comprehensive plan development and implementation, closure/post closure requirements, installing scales, closing landfills, and building transfer stations. A critical element is saving funds for closure/post closure requirements. Currently, there are no reporting requirements which indicate how much money is set aside, and for what purposes. Requiring some reporting to the Legislative Fiscal Bureau, with a copy to DNR, would provide some accountability.

NOTE: Upon further review, the department has determined that sufficient authority already exists to require this information; therefore, a legislative change is not needed. Requiring this reporting can be handled administratively.

Director Wilson explained that action is not needed on this proposal as it can be handled administratively.

NO ACTION NEEDED

MONTHLY REPORTS

Al Stokes, Division Administrator, Environmental Protection Division, presented the following item.

The following monthly reports are enclosed with the agenda for the Commission's information.

1. Rulemaking Status Report
2. Variance Report
3. Hazardous Substance/Emergency Response Report
4. Enforcement Status Report
5. Contested Case Status Report

Members of the department will be present to expand upon these reports and answer questions.

(Reports are shown on the following 14 pages)

IOWA DEPARTMENT OF NATURAL RESOURCES
ENVIRONMENTAL PROTECTION COMMISSION
RULEMAKING STATUS REPORT
October 1, 1992

PROPOSAL	NOTICE TO COMMISSION	NOTICE PUBLISHED	RULES REVIEW COMMITTEE	HEARING	FINAL SUMMARY TO COMMISSION	RULES ADOPTED	RULES PUBLISHED	RULE EFFECTIVE
1. Ch. 1 - Conflict of Interest	*12/21/92	1/20/93	*2/ /92	*2/ /93	-----	-----	-----	-----
2. Ch. 20, 22-25, 29 - Air Quality Rule Updates	8/17/92	9/16/92	*10/ /92	10/20/92 10/21/92 10/22/92	11/16/92	1/16/92	12/09/92	*1/13/93
3. Ch. 61 - Certification of Corps of Engineers Permits	7/20/92	9/02/92	9/09/92	9/24/92	10/19/92	*10/19/92	*11/11/92	*12/16/92
4. Ch. 82 - Well Contractors Certification	8/17/92	9/16/92	10/13/92	10/10/92	*11/16/92	*11/16/92	*12/09/92	*2/13/93
5. Ch. 100 & 102 - Permits- Special and Infectious Waste	1/21/92	2/19/92	3/09/92	3/18/92				
6. Ch. 100 & 102 - Permits Special and Infectious Waste	10/19/92	*11/11/92	*12/ /92	*12/01/92	*1/18/93	*1/18/93	*2/17/93	*3/24/93
7. Ch 102 - Financial Assurance Mechanism for Closure and Post-Closure Costs at Sanitary Disposal Projects	10/19/92	*11/11/92	*12/ /92	*12/01/92 *12/02/92 *12/03/92	*1/18/92	*1/18/92	*2/17/93	*3/24/92

MONTHLY VARIANCE REPORT

Month: September, 1992

No.	Facility	Program	Engineer	Subject	Decision	Date
1.	Tasler Pallet & E.P.S. Webster City	Air Quality		Rubbish	Denied	09/28/92
2.	Meadow Lawn Nursing Center - Scott County	Wastewater Construction	Shive-Hattery Engineers & Architects	Site Separation	Approved	09/28/92
3.	Barker Wire Products, Inc. - Keosauqua	Wastewater Operations		Monitoring Frequency	Approved	09/01/92
4.	John Deere Dubuque Works	Wastewater Operations		Monitoring Frequency	Approved	09/01/92
5.	Farmer's Coop Society- Sioux County	Watersupply Construction		Siting Criteria	Approved	09/28/92
6.	Joe Mooney - Johnson County	Watersupply Construction		Siting Criteria	Approved	09/28/92
7.	Stephen Fuemmeler - Linn County	Watersupply Construction		Siting Criteria	Approved	09/28/92

Report of Hazardous Conditions

During the period September 1, 1992 through September 30, 1992, reports of 71 hazardous conditions were forwarded to the Central Office. Two incidents are highlighted below. A general summary and count by field office is attached. These do not include releases from underground storage tanks, which are reported separately.

Date Reported and County	Description: Material, Amount, Date of Incident, Cause, Location, Impact	Responsible Party	Response and Corrective Actions
09/09/92 Linn	A hose broke on a transport as sulfamic acid was being pumped into a building. Approximately 100 gallons of acid spilled onto a concrete parking lot and washed into a nearby storm sewer because of heavy rain. No injuries were reported.	Quaker Oats 418 2nd St. Cedar Rapids, IA	Employees closed the gate to the storm sewer. The water and acid were retained in the storm sewer system until it was determined that the pH of the solution was neutral. The company was allowed to release the diluted acid from the storm sewer to the Cedar River.
09/11/92 Jones	A seal blew out during maintenance of dry cleaning equipment. 150 gallons of petroleum naphtha were sprayed over the room. Some material entered a floor drain. Two people were exposed. No long term health effects are anticipated.	Men's Reformatory 405 N. High St. Anamosa, IA	The room was ventilated and the floor drain was plugged. The room was cleaned with sorbent materials. The exposed people were taken to the hospital for treatment and observation.

NUMBERS IN PARENTHESES REPRESENT REPORTS FOR THE SAME PERIOD IN FISCAL YEAR 1991

<u>Substance Type</u>					<u>Mode</u>					
Month	Total # of Incidents	Petroleum Product	Agri. Chemical	Other Chemicals and Substances	Handling and Storage	Pipeline	Highway Incident	RR Incident	Fire	Other
Oct.	87(112)	52(69)	4(7)	31(36)	42(70)	2(0)	24(25)	2(1)	0(1)	17(15)
Nov.	83(69)	56(36)	3(11)	22(22)	44(35)	1(0)	22(15)	0(4)	1(1)	13(14)
Dec.	81(85)	47(61)	7(14)	27(10)	40(37)	2(1)	28(23)	2(1)	1(1)	8(22)
Jan.	64(56)	40(31)	6(7)	18(18)	33(35)	0(1)	22(9)	1(1)	0(1)	8(9)
Feb.	61(77)	38(43)	6(7)	17(27)	36(47)	0(1)	19(14)	2(2)	0(2)	4(11)
March	79(82)	40(51)	15(10)	24(21)	50(43)	0(3)	14(17)	1(3)	0(0)	14(16)
April	107(85)	50(46)	35(22)	22(17)	47(36)	3(2)	39(25)	2(1)	0(0)	16(21)
May	141(162)	41(54)	64(67)	36(41)	75(79)	0(3)	49(47)	1(3)	3(0)	13(29)
June	105(116)	58(51)	25(46)	22(19)	51(52)	2(1)	28(42)	2(0)	3(0)	19(21)
July	85(125)	47(57)	7(22)	31(46)	47(60)	0(2)	18(26)	0(2)	0(1)	0(34)
August	107(77)	75(51)	9(9)	23(17)	57(34)	1(2)	30(17)	1(5)	1(0)	17(19)
Sept.	71(56)	37(32)	3(5)	31(19)	41(29)	1(1)	22(16)	1(0)	0(0)	6(10)

Total Number Of Incidents Per Field Office This Period:

1	2	3	4	5	6
8	11	8	6	16	22

REPORTS OF RELEASES FROM UNDERGROUND STORAGE TANKS

During the period of September 1, 1992 through September 30, 1992, the following number of releases from underground storage tanks were identified.

24 (48)

The number in parentheses represents the number of releases during the same period in Fiscal Year 1991.

Enforcement Report Update

The following new enforcement actions were taken last month:

Name, Location and Field Office Number	Program	Alleged Violation	Action	Date
Revelle 1 & 2 Subdivision, Blue Grass (6)	Drinking Water	MCL-Bacteria; Public Notice	Emergency Order	9/03/92
Black Coach, Okoboji (3)	Drinking Water	Monitoring/Reporting-Nitrate	Amended Order	9/03/92
Eldon Krambeck, Scott County (6)	Air Quality	Open Burning	Order/Penalty	9/10/92
Ron Jungling d/b/a Jungling Texaco, Wellsburg (2)	Underground Tank	Monitoring Deficiencies	Order/Penalty	9/10/92
John Farus and Richard Shaw d/b/a Sid's Gas & Grocery, Mason City (2)	Underground Tank	Monitoring Deficiencies	Order/Penalty	9/10/92
E. Kent Cooper and Joan Cooper, Ames (5)	Underground Tank	Closure Investigation	Order	9/10/92
Buffalo Bill Estates, Inc., Davenport (6)	Drinking Water	Monitoring/Reporting-Bacteria; MCL - Bacteria; Public Notice	Order/Penalty	9/10/92
Gold Slipper, Dunlap (4)	Drinking Water	Monitoring/Reporting-Nitrate	Order/Penalty	9/10/92
United Brick & Tile, Adel (5)	Wastewater	Prohibited Discharge	Order/Penalty	9/15/92
Kingsbury Inn, Columbus Junction (6)	Drinking Water	Monitoring/Reporting-Nitrate	Order/Penalty	9/17/92
Rudd Brothers Tire, Drakesville (6)	Underground Tank	Closure Investigation	Order/Penalty	9/17/92
Gloeckners Subdivision, Graf (1)	Drinking Water	MCL - Bacteria	Emergency Order	9/17/92
Karl Ludwig, et al., Dubuque (1)	Underground Tank	Closure Investigation	Amended Order	9/17/92
Sioux Harbor Enterprises, Sioux City (3)	Underground Tank	Illegal Deposit	Order/Penalty	9/17/92
Bernard Sadler and Ger Mar Farms, Inc. Allamakee County (1)	Solid Waste	Illegal Disposal	Referred to AG	9/21/92
Chicago, Central & Pacific Railroad, Ft. Dodge (2)	Wastewater	Monitoring/Reporting-Effluent Limits; Prohibited Discharge	Referred to AG	9/21/92
Wildwood First Addition Water Service Co., Toddville (1)	Drinking Water	MCL - Bacteria	Emergency Order	9/23/92
Hoover Hatchery, Inc., Floyd County (2)	Solid Waste	Illegal Disposal	Order/Penalty	9/23/92

Name, Location and Field Office Number	Program	Alleged Violation	Action	Date
Lloyd Decker, Floyd County (2)	Solid Waste Air Quality	Illegal Disposal Open Burning	Order/Penalty	9/23/92
Ottosen, City of (2)	Drinking Water	Permit Application Delinquency	Order	9/23/92
James J. Bielfeldt, Crawford County (4)	Flood Plain	Construction Without Permit	Order/Penalty	9/23/92
Country Mobile Home Court, New Hampton (1)	Drinking Water	MCL - Bacteria; Monitoring/Reporting-Bacteria	Order/Penalty	9/23/92
Pioneer, City of (2)	Drinking Water	Operation Without Permit	Order	9/23/92
Marvin Kruse d/b/a K & C Feeds, Luana (1)	Underground Tank	Closure Investigation	Order/Penalty	9/23/92
Albert Rohrer and Chelmer Flynn, Scott County (6)	Solid Waste Air Quality	Illegal Disposal; Open Burning	Order/Penalty	9/28/92
Harrison County Landfill, Harrison County (4)	Solid Waste	Compliance Schedule; Leachate Control; Other	Order/penalty	9/28/92
Willard Reschly d/b/a Reschly Metals, Washington County (6)	Air Quality	Open Burning	Order/Penalty	9/28/92

Summary of Administrative Penalties

The following administrative penalties are due:

NAME/LOCATION	PROGRAM	AMOUNT	DUE DATE
Paper Recovery Corporation (Sioux City)	UT	500	1-08-92
Krause Feedlot (Hardin County)	WW	500	1-23-92
Bernard Gavin Veterinary Clinic (Wellsburg)	UT	600	5-02-92
Nob Hill Supper Club (Decorah)	WS	400	8-11-92
Breitbach's Tap (Sherrill)	WS	200	8-12-92
Dick White (Washington County)	AQ	250	8-15-92
Sunny Brae Golf & Country Club (Osage)	WS	500	8-19-92
Central Paving Corporation (Indianola)	UT	300	8-20-92
Orville Reid, Jr. (Cedar County)	WW	500	8-20-92
Stone City General Store, Inc. (Anamosa)	WS	695	8-26-92
Marion Stark (Kellerton)	UT	300	8-26-92
Don Grothe d/b/a Don's Motor Mart (Lake Mills)	UT	300	9-10-92
Chalstom Beach of Okoboji (Spirit Lake)	WS	240	9-10-92
Delano's Lounge (Washington)	WS	500	9-20-92
Des Moines, City of	WW	1,000	9-20-92
Calmar Foods aka Country Lane Foods (Calmar)	WW	1,000	10-07-92
Midway Water & Lighting (Marion)	WS	860	10-07-92
Robert Plendl d/b/a Plendl Bros. Trucking (Kingsley)	UT	300	10-15-92
Shirley Pecoy d/b/a Joe's Place (Sexton)	UT	300	10-19-92
63-80 Cafe (Malcom)	WS	1,000	10-22-92
Cedar Springs Wesleyan Camp (Floyd)	WS	500	10-24-92
Dairy Mart (Ainsworth)	WS	300	10-27-92
Country Living Care Center (Toledo)	WS	300	10-27-92
Donald Ferkle (Muscatine County)	AQ	600	10-28-92
North Liberty Water, Inc. (Johnson County)	WS	300	10-29-92
Seven Ponds Park (Des Moines County)	WS	535	11-03-92
Rankin Roofing & Siding Co. (Knoxville)	AQ	500	11-09-92
Gold Slipper (Dunlap)	WS	75	11-18-92
Ron Jungling d/b/a Jungling Texaco (Wellsburg)	UT	550	11-18-92
Kingsbury Inn (Columbus Junction)	WS	375	11-21-91
Eldon Krambeck (Scott County)	AQ	1,000	11-22-92
Sioux Harbor Enterprises (Sioux City)	UT	1,000	11-23-92
Rudd Brothers Tire (Drakesville)	UT	300	11-23-92
Hoover Hatchery, Inc. (Floyd County)	SW	300	11-25-92
Loyd Decker (Floyd County)	SW	1,000	11-25-92
James J. Bielfeldt (Crawford County)	FP	600	11-26-92

*On Payment Schedule

Country Mobile Home Court (New Hampton)	WS	845	11-26-92
Carson Grain & Implement (Coggon)	UT	1,000	-----
Buffalo Bill Estates, Inc. (Camanche)	WS	415	-----
United Tile & Brick (Adel)	WW	1,000	-----
Willard Reschly d/b/a Reschly Metals (Washington Co.)	AQ	250	-----
Albert Rohrer/Chelmer Flynn (Scott Co.)	SW	1,000	-----
Harrison County Landfill	SW	1,000	-----
Marvin Kruse d/b/a K & C Feeds (Luana)	UT	300	-----

The following cases have been referred to the Attorney General:

NAME/LOCATION	PROGRAM	AMOUNT	DUE DATE
OK Lounge (Marion)	WS	448	11-01-87
Richard Davis (Albia)	SW	1,000	2-28-88
Eagle Wrecking Co. (Pottawattamie Co.)	SW	300	5-07-89
*Twelve Mile House (Bernard)	WS	119	5-20-89
*Lawrence Payne (Ottumwa)	SW	425	6-19-89
William L. Bown (Marshalltown)	SW	1,000	10-01-89
Wellendorf Trust (Algona)	AQ/SW	460	2-12-90
Donald P. Ervin (Ft. Dodge)	SW	669	3-05-90
Amoco Oil Company (Des Moines)	UT	1,000	8-15-90
Gerald G. Pregler (Dubuque Co.)	SW	1,000	9-02-90
Donald R. Null (Clinton Co.)	AQ/SW	1,000	9-06-90
Robert and Sally Shelley (Guthrie Center)	SW	1,000	3-04-91
Fred Varner (Worth County)	SW	950	4-11-91
Buffalo Bill Estates, Inc. MHP (Camanche)	WS	245	5-14-91
Honey Creek Camping Resort (Crescent)	WS	245	6-13-91
Fred R. Thomas/Fred R. Thomas, Jr. d/b/a Clair-View Acres Store (Delhi)	WS	1,000	8-04-91
*M & W Mobile Home Park (Muscatine)	WW	200	8-21-91
Lloyd Dunton (Iowa County)	SW	300	11-07-91
Buffalo Bill Estates, Inc. (Clinton Co.)	WS	440	11-19-91
Vern Starling (Boone Co.)	SW	690	9-15-91
Capitol Oil Co. d/b/a Dakota MHP (Iowa City)	WW	1,000	11-03-91
Vincent Martinez d/b/a Martinez Sewer (Davenport)	HC	500	1-01-92
Vernus Wunschel d/b/a Wunschel Oil Co. (Ida Grove)	UT	300	1-12-92
Buffalo Bill Estates, Inc. MHP (Camanche)	WS	500	1-25-92
Dilts Trucking, Inc. (Crescent)	UT	500	1-12-92
R. D. Loftin, DVM (Osage)	UT	300	2-12-92
*Todd D. Behounek and Paul Behounek (Tama County)	SW	100	5-21-92
Kenneth Bode (Mills Co.)	SW	300	4-27-92
Van Hulzen Oil Company (Oskaloosa)	UT	700	4-27-92
V.R. Dillingham d/b/a Barb's Service (Everly)	UT	600	5-21-92
Charlie Fox d/b/a Charlie's Standard (Hamburg)	UT	600	5-21-92
Leonard Page d/b/a Kent Store (Kent)	UT	300	5-25-92
Tandem Oak Park Associates (Ft. Dodge)	WS	405	6-03-92
Kris Ehlinger d/b/a K.J.'s Convenience (LeClaire)	UT	600	5-21-92
Bernard Sadler/Ger-Mar Farms (Allamakee Co.)	SW	500	3-28-92

The following administrative penalties have been appealed:

NAME/LOCATION	PROGRAM	AMOUNT
AMOCO Oil Co. (Des Moines)	UT	1,000
Iowa City Regency MHP	WW	1,000
1st Iowa State Bank (Albia)	SW	1,000
Cloyd Poland (Decatur)	FP	800
Amoco Oil Co. (West Des Moines)	UT	1,000
Sioux City, City of	WW	1,000
Des Moines, City of	HC	1,000
Van Dusen Airport Services (Des Moines)	HC	1,000
Maple Crest Motel and MHP (Mason City)	WS	350
Plymouth County Solid Waste Agency	SW	1,000
Chicago & North Western Transportation, et.al.	SW	1,000
Joe Eggers, Jr., et. al. (St. Ansgar)	SW	1,000
McDowell Dam #1 (Lee County)	FP	500
McDowell Dam #2 (Lee County)	FP	500
Oskaloosa Food Products Corp. (Oskaloosa)	WW	1,000
Oskaloosa, City of	WW	1,000
Westside Park for Mobile Homes (Lee Co.)	WW	250
Monona Co. SLF/Ronald L. Hanson (Monona Co.)	SW	1,000
Casey's General Store (Redfield)	UT	1,000
Tower Club (Cresco)	WS	400
Wiota, City of	WS	500
Hickory Hollow Water Co. (Ankeny)	WS	400
Dell Oil Ltd. (Sioux City)	HC	1,000
Nordstrom Oil Company (Cedar Rapids)	HC	1,000
White Consolidated/Frigidaire Co. (Jefferson)	WW	1,000
D.Frank/D.Steib-Interstate Salvage (Webster Co.)	AQ	600
Linden Water Supply	WS	1,000
William H. Viner (Emerson)	UT	600
Partners-Four-Investments, Inc. (Rockwell)	UT	700
Ossian Chemical, Inc. (Davenport)	AQ	1,000
Farmers Cooperative Elevator (Martelle)	HC	1,000

Partners-Four-Investments, Inc. (Marble Rock)	UT	700
Community Cooperative Oil Co. (Marcus)	UT	600
Community Cooperative Oil Co. (Paullina)	UT	600
Community Cooperative Oil Co. (Remsen)	UT	600
Humboldt County Sanitary Landfill Commission	SW	1,000
Wayne Transportation, Inc. (Greene)	WW	1,000
Mulgrew Oil Company (Dubuque)	HC	500
Clement Auto and Truck, Inc. (Webster City)	UT	500
John Staub d/b/a Mr. Convenient (Burlington)	UT	600
Charles Kerr (Sloan)	UT	600
Swaledale, City of	WS	400
Stringtown Country Cafe (Lenox)	WS	1,000
Lincoln Farm and Home Service (Henderson)	WW	1,000
Joslin Enterprises, Ltd. (Anamosa)	UT	600
Country Estates Mobile Home Park (Long Grove)	WS	765
Rockford Golf & Country Club (Rockford)	WS	200
Chickasaw Co. SLF, et.al. (Chickasaw Co.)	SW	1,000
Richard Newman (Des Moines Co.)	SW	500
Rocky Nook Resort (Delhi)	WS	475
Gerks Seasonal MHP and Resort (Spirit Lake)	WS	200
Plymouth Cooperative Oil Co. (Hinton)	WW	1,000
LaVerne Rehder (Union)	UT	300
PAM Fuels, Inc. (Milford)	UT	1,000
Randy Bonin/Vickie Brannick (Hardin County)	SW	500
Ida County Sanitary Landfill (Ida County)	SW	1,000
Dean Hoeness d/b/a Hoeness & Sons (Winterset)	UT	300
Waste Systems Corp./Ronald Roth (Winnebago Co.)	SW	1,000
Timberlane Addition (Ft. Dodge)	WS	500
Decatur, City of	UT	600
Leisure Lake Inn (Bernard)	WS	880
South High Point Well Assn. #1 (Iowa City)	WS	600
Case Power and Equipment (Decorah)	WS	500
Pony Creek Park/Mills County Conservation Board	WS	50
Cedar Valley Corporation (Waterloo)	AQ	1,000
King's Terrace Mobile Home Court (Ames)	WW	500
ITWC, Inc. (Malcom)	AQ	1,000

The following administrative penalties were paid last month:

NAME/LOCATION	PROGRAM	AMOUNT
Best Western Westfield Inn (Coralville)	WS	300
Consolidated Packaging Corp. (Fort Madison)	WW	1,000
Farmland Foods, Inc. (Carroll)	WW	1,000
Plantation Village Mobile Home Park (Burlington)	WS	200
Great Rivers Coop (Atavia)	HC	500
Xenia Rural Water District (East)(Woodward)	WS	100
Knollridge Garden Apartments (Iowa City)	WS	500
Dyersville Golf & Country Club (Dyersville)	WS	250
Lansing, City of	WS	50
Valley Inn, Inc. (Pleasant Valley)	WS	200
Wildwood First Addition Water Co. (Toddville)	WS	380
Elkader Golf & Country Club (Elkader)	WS	200
*M & D's Chalet (Elgin)	WS	50
Molkenthin Swine Operation (Keokuk County)	WW	300
Don Stickle and Sons Farms (Linn County)	WW	750
Village Creek Bible Council (Lansing)	WS	200
Grafton, City of	WS	200
Sloan, City of	WS	95
Gloekner's Subdivision (Graf)	WS	480
Orrie's Supper Club, Inc. (Hudson)	WS	150
*M & D's Chalet (Elgin)(PAID IN FULL)	WS	115
Devils Creek Estates Home Assn. (Buffalo)	WS	100
Fansteel Washington Manufacturing (Washington)	WW	1,000
Eastern Iowa Tire, Inc. (Scott County)	SW	600
Dallas Co. Board of Supervisors	AQ	1,000
John Farus/R. Shaw d/b/a Sid's Gas (Mason City)	UT	500
Hallett Materials-Van Meter Pit (Dallas Co.)	WW	1,000
McCarty Creek Homeowners Assn. (LeClaire)	WS	210
Fine Creek Golf Course (Mason City)	WS	180
TIP Farms (Wright County)	WW	400

TOTAL \$12,010

The \$200.00 penalty assessed to Black Coach (Okoboji) was rescinded.

Environmental Protection Commission Minutes

October 1992

DEPARTMENT OF NATURAL RESOURCES ENVIRONMENTAL PROTECTION COMMISSION ATTORNEY GENERAL REFERRALS October 1, 1992

Name, Location and Region Number		Program	Alleged Violation	DNR Action	New or Updated Status	Date
Al's Corner Oil Co. Carroll (4)		Hazardous Condition	Remedial Action	Order	Referred	12/16/91
Amana Colonies Golf Course Amana (6)		Wastewater	Construction Without Permit	Order	Referred	2/17/92
American Meat Protein Corp Lytton (3)		Wastewater	Pretreatment	Referred to Attorney General	Referred Petition Filed	10/21/91 4/30/92
Ames Golf & Country Club Ames(5)		Wastewater	Op. Violations Effluent Limits	Referred to Attorney General	Referred	8/19/91
Amoco Oil Company Des Moines (5)		Underground Tank	Referred to Remedial Action	Referred Attorney General	Referred Suit Filed Trial Date	8/21/90 10/15/90 9/27/91 3/29/93
Archer Daniels Midland Co. Clinton County (6)		Wastewater Air Quality	Prohibited Discharge Emission Stds.	Referred to Attorney General	Referred Amended Petition Filed Referred Petition Filed Trial Date	3/18/91 10/28/91 5/20/91 10/04/91 1/18/93
Behounek, Paul and Todd Tama (5)		Air Quality	Open Burning	Referred to Attorney General	Referred	5/18/92
Bell Watcher, Inc. Poweshiek Co. (5)	Updated	Wastewater	Operation Violations	Referred to Attorney General	Referred Consent Decree Reactivated Application for Stipulation Penalty	9/20/89 4/23/90 12/23/91 9/04/92
Birusingh, Kirshna A. Crescent (4)		Solid Waste	Illegal Disposal	Referred to Attorney General	Referred	6/15/92
Bode, Kenneth Mills County (4)		Solid Waste	Illegal Disposal	Order/Penalty	Referred Motion for Summary Judgment	6/15/92 8/26/92
Boley, Fred d/b/a Boley Oil McCausland (6)		Hazardous Condition	Remedial Action	Order	Referred	2/17/92
Bridgestone/Firestone, Inc. Des Moines (5)		Wastewater Hazardous Condition	Prohibited Discharge/ Failure/Notify	Referred to Attorney General	Referred Trial Information Filed	5/21/90 7/06/92
Bryant, Robert D.V.M. d/b/a Cherokee Hog Farms Aurelia (3)		Wastewater	Prohibited Discharge	Referred to Attorney General	Referred Trial Information	7/15/91 5/19/92
Buffalo Bill Estates, Inc. Camanche (6)	Updated	Drinking Water	Mtrg/Rprtng- Nitrate	Order/Penalty	Referred Motion for Summary Judgment	6/17/91 9/03/92
Buffalo Bill Estates, Inc. Clinton County (6)	Updated	Drinking Water	Mtrg/Rprtng- MCL - Bacteria	Order/Penalty	Referred Motion for Summary Judgment	12/16/91 9/03/92
Capitol City Oil Co. d/b/a Dakota Mobile Home Park Iowa City (6)		Wastewater	Monitoring/ Reporting	Order/Penalty	Referred	2/17/92
Carney, Don and Gertrude Ft. Dodge (2)		Solid Waste	Illegal Disp.	Order/Penalty	Referred Petition Filed	4/15/91 3/25/92
Chalfant, Milo, et.al. Webster City (2)		Solid Waste	Illegal Disp.	Order/Penalty	Referred Suit Filed Trial Date	9/20/89 8/08/90 4/08/92
Chicago, Central and Pacific R.R. Ft. Dodge (2)	New	Wastewater	Mtrg/Rprtng Effluent Limits	Referred to Attorney General	Referred	9/21/92

DEPARTMENT OF NATURAL RESOURCES
ENVIRONMENTAL PROTECTION COMMISSION
ATTORNEY GENERAL REFERRALS
October 1, 1992

Name, Location and Region Number		Program	Alleged Violation	DNR Action	New or Updated Status	Date
Chicago & Northwestern Transportation Co.		Hazardous Condition	Remedial Action	Order	Petition for Judicial Review Petition for Judicial Review Petition for Judicial Review Order/Change Venue to Hardin Co.	8/19/91 8/14/91 9/16/91 11/21/91
Blue Chip Enterprises					Motion to Consolidate	12/31/91
Hawkeye Land Company Iowa Falls (2)					Brief Due Respondent's Brief Due Reply Brief Due Oral Arguments	9/01/92 10/16/92 11/16/92 12/03/92
Chicago & Northwestern Transportation Co. Stanwood (6)		Air Quality	Open Burning	Referred to Attorney General	Referred	5/07/92
Cota Industries, Inc. Des Moines (5)	Updated	Hazardous Condition	Remedial Action	Order	Referred	4/15/91
				Order	Petition for Judicial Review Motion to Dismiss Order Granting Motion to Dismiss Notice of Appeal Appellant Filed Brief State Filed Brief Oral Arguments	4/18/91 5/08/91 7/23/91 8/13/91 11/11/91 1/10/92 9/17/92
Davis, Richard & Sonja (5)		Solid Waste	Open Unpermitted Dumping	Referred to Attorney General	Referred Suit Filed Default Judgement Filed Motion to Deny Default Motion Overruled	6/22/88 8/11/88 4/21/89 6/14/89 10/04/89
Jimmy Dean Meat Co., Inc. (5)		Wastewater	Pretreatment	Referred to Attorney General	Referred Petition Filed Trial Date Consent Decree (\$100,000/Civil/ Injunction)	4/16/90 5/13/91 9/29/92 9/10/92
	Updated					
Osceola, City of (5)		Wastewater	Prohibited Discharge	Referred to Attorney General	Referred Petition Filed Amended Petition Filed Consent Decree (\$5,000/Civil)	4/16/90 11/30/90 5/13/91 9/28/92
Dillingham, V.R. Everly (3)		Underground Tank	Closure Investigation	Order/Penalty	Referred	6/15/92
Dilts Trucking, Inc. Crescent (4)		Underground Tank	Closure Investigation	Referred to Attorney General	Referred	4/20/92
Dunton, Lloyd Iowa County (6)		Solid Waste	Illegal Disp.	Order/Penalty	Referred Petition Filed	12/16/91 8/26/92
Ecology Enterprises, Inc; Hollis D. DeVoe; Michael Murray; Robert Rausch Chickasaw County (1)		Solid Waste	Illegal Disposal	Referred to Attorney General	Referred	6/15/92
Ehlinger, Kris d/b/a K.J.'s Convenience & Deli Maquoketa (6)		Underground Tank	Site Check	Order/Penalty	Referred	8/17/92
Ervin, Don Webster County (2)	Updated	Solid Waste	Operation Without Permit	Order/Penalty	Referred Motion for Summary Judgment Hearing Held Judgment for \$1,000 Execution & Order to Levy Application to Condemn Funds Partial Payment Received (\$331)	4/16/90 6/02/90 7/02/90 7/13/90 9/28/90 11/27/90 11/30/90
			Permit Violations	Referred to Attorney General	Referred Temporary Injunction Contempt Hearing Order of Contempt Motion for Stay Order Granting Stay Contempt Reversed	9/16/91 9/18/91 12/06/91 12/20/91 12/26/91 12/26/91 9/29/92

Environmental Protection Commission Minutes

October 1992

Faber, Don Des Moines (5)	Solid Waste	Illegal Disposal	Referred to Attorney General	Referred	5/18/92
First Iowa State Bank Albia (2)	Solid Waste	Open Dumping	Order/Penalty	Petition for Judicial Review Oral Argument Ruling on Petition for Judicial Review Notice of Appeal State Filed Brief	4/12/91 11/04/91 3/02/92 3/31/92 8/03/92
Fox, Charlie Hamburg (4)	Underground Tank	Site Check	Order/Penalty	Referred	6/15/92
Giese Construction Co. Ft. Dodge (2)	Solid Waste Air Quality Burning	Illegal Disposal; Open	Referred to Attorney General	Referred	5/29/92
Herweh, Bill Prairie City (5)	Updated Underground Tank	Closure Investigation	Order	Referred Closed Administratively	11/18/91 9/18/92
Humboldt County Sanitary Landfill (2)	Solid Waste	Cover Violations; Other	Referred to Attorney General	Referred	5/29/92
IBP, inc. Columbus Junction (6)	Wastewater	DNR Defendant	Defense	Suit Filed Answered IBP Brief Filed State Brief Filed Oral Arguments	3/17/92 4/03/92 5/26/92 7/31/92 9/22/92
Iowa City, City of (6)	Solid Waste	Cover Violations	Referred to Attorney General	Referred	4/20/92
Lakeshore Drive, Inc. et al. Osceola (5)	Flood Plain	Reconstruction	Order	Referred Petition Filed Judgment vs. Lakeshore	11/20/89 2/07/90 4/09/90
Landfill of Des Moines, Inc. Des Moines #4 (5)	Solid Waste	Compliance Schedule; Other	Order/Penalty	Referred Petition Filed	12/16/91 9/01/92
Landfill of Des Moines, Inc. Des Moines #5 (5)	Solid Waste	Compliance Schedule; Other	Order/Penalty	Referred Petition Filed	5/18/92 9/01/92
Loften, R. D. d/b/a Loften Veterinary Services Osage (2)	Underground Tank	Closure Investigation	Order/Penalty	Referred	4/20/92
Lucas-Monroe County Sanitary Landfill (5)	Solid Waste	Other	Referred to Attorney General	Referred	5/29/92
Lytton, City of (3)	Wastewater	Pretreatment	Referred to Attorney General	Referred	5/18/92
Maasdam, Donald Rolfe (3)	Solid Waste	Operation Without Permit	Order	Referred Petition Filed	1/21/92 8/26/92
MacMillan Oil Co., Inc.; The Graham Group, Inc. Des Moines (5)	Wastewater	Prohibited Discharge; Remedial Action	Referred to Attorney General	Referred	7/20/92
Martinez, Vincent d/b/a Martinez Sewer Service Davenport (6)	Hazardous Condition	Remedial Action	Order/Penalty	Referred	2/17/92
Bob McKinnis Excavating & Grading v. IDNR	Hazardous Condition	DNR Defendant	Defense	Suit Filed DNR Motion to Dismiss Ruling on Motion to Dismiss and Bifurcation	3/12/91 5/01/91 3/26/92
Midwest Environmental Law Center v. EPC	Air Quality	DNR Defendant	Defense	Suit Filed Answer Filed Motion for Summary Judgment Hearing on Motion Summary Judgment Denied Trial Date	12/03/91 12/23/91 4/10/92 5/22/92 5/22/92 10/08/92
Monfort, Inc. Des Moines (5)	Wastewater	Prohibited Discharge	Referred to Attorney General	Referred Trial Info. Filed (Polk Co.) Pre-Trial Hearing Trial Date	12/11/89 7/19/91 7/31/92 10/05/92
New Virginia Sanitary District (5)	Wastewater	Mtrg/Rprt	Referred to Attorney General	Referred Petition Filed	9/16/91 5/19/92
Nollen, Harold d/b/a Nollen Phillips 66 Harlan (4)	Underground Tank	Closure Investigation	Referred to Attorney General	Referred	4/20/92

DEPARTMENT OF NATURAL RESOURCES
ENVIRONMENTAL PROTECTION COMMISSION
ATTORNEY GENERAL REFERRALS
October 1, 1992

Name, Location and Region Number		Program	Alleged Violation	DNR Action	New or Updated Status	Date
Orchard, City of (2)		Drinking Water	Mtrg/Rprtng MCL-Bacteria Operation Violations	Referred to Attorney General	Referred	6/17/91
Page, Leonard Kent (4)		Underground Tank	Closure Investigation	Order/Penalty	Referred	6/15/92
Pringle, Michael and Brenda d/b/a Follet's Tap Camanche (6)		Drinking Water	Mtrg/Rprtng Bacteria/Nitrate	Referred to Attorney General	Referred	6/15/92
Sadler, Bernard and Ger Mar Farms, Inc. Allamakee Co. (1)	New	Solid Waste	Illegal Disposal	Order/Penalty	Referred	9/21/92
Schultz, Albert and Iowa Iron Works Ely (1)		Solid Waste	Open Dumping	Referred to Attorney General	Referred Suit Filed Trial Date	9/20/89 8/08/90 4/19/93
Shelley, Roberto and Sally Guthrie Center (4)	Updated	Solid Waste	Illegal Disposal	Order/Penalty	Referred Petition Filed Trial Date Ruling (\$1,000/Admin.; Clean-up Ordered) Notice of Appeal	4/15/91 7/18/91 5/19/92 8/25/92 9/17/92
Siouxland Quality Meat Co., Inc. Sioux City (3)		Wastewater	Discharge Limitations	Referred to Attorney General	Referred Petition Filed Consent Decree (\$5,000) Bankruptcy Ch. 7 Filed Claim Filed Bankruptcy Trial Date	2/20/90 7/02/90 10/30/91 12/19/91 1/21/92 5/14/92
Soo Line Railroad Co. Mason City (2)		Wastewater Haz. Condition	Prohibited Discharge Remedial Action	Referred to Attorney General	Referred	7/15/91
Sun Wise Systems Corp. Sac City (3)		Wastewater	Pretreatment	Referred to Attorney General	Referred Petition Filed Trial Date	10/15/90 11/27/91 1/26/93
Tama City of (5)		Wastewater	Discharge Limitations	Referred to Attorney General	Referred	6/15/92
Tandem-Onk Park Assoc. Fort Dodge (2)		Drinking Water	Mtrg/Rprtng Bacteria/Inorg. Organics/Rads	Order/Penalty	Referred	7/20/92
Thomas, Fred R. d/b/a Clair-View Acres, Delhi (1)	Updated	Drinking Water	Mtrg/Rprtng	Order/Penalty	Referred Hearing	9/16/91 9/22/92
Van Hulzen, Kenneth Oskaloosa (5)		Underground Tank	Closure Investigation	Order/Penalty	Referred	6/15/92
Vonderhaar, Leonard Holy Cross (1)		Air Quality	Open Burning	Referred to Attorney General	Referred	8/17/92
Winterset, City of (5)		Wastewater	Effluent Limits	Referred to Attorney General	Referred	7/20/92
Wunschel, Vernus Ida Grove (3)		Underground Tank	Closure Investigation	Order/Penalty	Referred	2/17/92
Yentes, Clifford Council Bluffs (4)		Solid Waste	Illegal Disposal	Referred to Attorney General	Referred	4/20/92
Zahrobsky, Tom Lucas (5)		Wastewater	Prohibited Discharge	Order/Penalty	Referred	5/26/92

Environmental Protection Commission Minutes

October 1992

DEPARTMENT OF NATURAL RESOURCES ENVIRONMENTAL PROTECTION COMMISSION CONTESTED CASES OCTOBER, 1, 1992

DATE RECEIVED	NAME OF CASE	ACTION APPEALED	PROGRAM	ASSIGNED TO	STATUS
1-23-86	Oelwein Soil Service	Administrative Order	WW	Landa	Hearing continued.
5-12-87	Iowa City Regency MHP	Administrative Order	WW	Hansen	Letter received 9/29/92 regarding option selected by facility for upgrading.
1-15-88	First Iowa State Bank	Administrative Order	SW	Kennedy	Appealed to Supreme Court.
2-05-88	Warren County Brenton Bank	Administrative Order	UT	Wornson	One of two sites closed-SCR completed on second.
3-01-88	Cloyd Foland	Administrative Order	FP	Clark	District Court dismisses other issues; Foland appeals to Supreme Court.
10-20-88	Worth Co. Co-Op Oil Northwood Cooperative Elevator Sunray Refining and Marketing Co.	Administrative Order	HC	Murphy	Ruling on dismissal/intervention 8/28/92. Appealed to EPC 9/92. Appeal hearing set for 11/16/92.
1-25-89	Amoco Oil Co. - Des Moines 7LTY03	Administrative Order	UT	Wornson	Settlement proposed. Clean-up progressing.
2-10-89	Baier/Mansheim/Moyer	Site Registry	HW	Murphy	Settled.
5-01-89	Amoco Oil Co. - West Des Moines	Administrative Order	UT	Wornson	Compliance initiated.
6-08-89	Shaver Road Investments	Site Registry	HW	Landa	Hearing continued. Discovery initiated.
6-08-89	Hawkeye Rubber Mfg. Co.	Site Registry	HW	Landa	Hearing continued. Discovery initiated.
6-08-89	Lehigh Portland Cement Co.	Site Registry	HW	Murphy	Hearing continued. Discovery initiated.
6-22-89	Chicago & Northwestern Transportation Co. Hawkeye Land Co. Blue Chip Enterprises	Administrative Order	HC	Landa	Petition for judicial review of agency action.
10-24-89	Farmers Cooperative Elevator Association of Sheldon	Site Registry	HC	Landa	Negotiation proceeding.
10-24-89	Consumers Cooperative Assoc.	Site Registry	HC	Landa	Negotiation proceeding.
11-03-89	Bridgestone/Firestone, Inc.	Site Registry	HC	Landa	Hearing continued pending negotiations.
11-20-89	FFCA/IIP	Site Registry	HC	Murphy	Considering dismissal.
12-11-89	Leo Schachtner	Permit Issuance	FP	Clark	Proposed decision 5/14/92. Appealed.
4-23-90	Sioux City, City of	Administrative Order	WW	Hansen	Informal meeting held on 5/18/90.
5-08-90	Texaco Inc./Chemplex Co. Site	Site Registry	HW	Landa	Settlement proposed.
5-14-90	Van Dusen Airport Services	Administrative Order	HC	Landa	Compliance initiated.
5-14-90	Alter Trading Corp. (Council Bluffs)	Administrative Order	SW	Kennedy	Negotiating before filing.
5-15-90	Des Moines, City of	Administrative Order	HC	Landa	Hearing continued. Settlement proposed.
6-20-90	Des Moines, City of	NPDES Permit Cond.	WW	Hansen	City response reviewed by EPD.
6-26-90	Maple Crest Motel and Mobile Home Park	Administrative Order	WS	Hansen	Negotiating settlement/letter sent 7/31/92.
7-02-90	Keokuk Savings Bank and Trust Keokuk Coal Gas Site	Site Registry	HW	Landa	Hearing continued.
7-11-90	Chicago & Northwestern Co.; Steve L. Carroll; Susan E. and Tracy A. Carroll	Administrative Order	NR	Kennedy	New orders issued 12/28/90 rescinding prior orders.
11-20-90		Administrative Order	SW	Kennedy	Settlement pending.

7-23-90	IBP, inc. Perry	Administrative Order NPDES Permit	WW	Hansen	Final amended permit issued 8/14/92.
7-26-90	Plymouth County SW Agency	Administrative Order	SW	Kennedy	Settlement pending.
7-30-90	Key City Coal Gas Site; Murphy Trust & Howard Pixler	Site Registry	HW	Landa	Decision appealed (Pixler). Motion to intervene denied 2/17/91 (Murphy Trust)
8-01-90	J.I. Case Company	Site Registry	HW	Preziosi	Hearing set for 10/30/92.
9-10-90	IBP, inc. Columbus Junction	Administrative Order NPDES Permit	WW	Hansen	Oral arguments 9/92. - Polk County District Court.
9-12-90	Michael & Joyce Haws; George H. Gronau	Administrative Order	UT	Wornson	Attorney finalizing settlement.
9-20-90	Duane Schwarting	Variance Denial	SW	Kennedy	Hearing continued.
10-15-90	Westside General Store Corp.	Administrative Order	UT	Wornson	Negotiating before filing.
10-18-90	Harlan Pruess	Claim	HC	Murphy	Hearing set for 10/01/92.
11-15-90	Springwood Enterprises, Inc.	Water Use Permit	WR	Clark	Hearing continued.
12-04-90	United States Gypsum Company	Administrative Order	SW	Kennedy	Negotiating before filing.
12-21-90	Des Moines, City of	Administrative Order	UT	Wornson	Settlement proposed.
12-27-90	McAtee Tire Service, Inc.	Administrative Order	SW	Kennedy	Hearing continued.
1-07-91	Joe E. Eggers, Jr.; Joe and Mary Eggers	Administrative Order	SW	Kennedy	Negotiating before filing.
1-09-91	Iowa Southern Utilities	Administrative Order	HC	Preziosi	Hearing continued to 2/09/93.
1-28-91	McDowell Dam #1 & #2	Administrative Order	FP	Clark	Negotiating before filing.
3-08-91	ADM - Cedar Rapids	Conditional Permit	AQ	Preziosi	Hearings begun.
3-22-91	Mitchell Bros. Boars and Gilts	Administrative Order	WW	Murphy	Negotiating before filing.
5-09-91	Oskaloosa Food Products Corp.	Administrative Order	WW	Hansen	Letter sent 9/4/92 regarding resolution of appeal.
5-16-91	Oskaloosa, City of	Administrative Order	WW	Hansen	Letter sent 9/4/92 regarding resolution of appeal.
5-20-91	Great Rivers Coop--Lockridge	Site Registry	HC	Murphy	Settlement proposed.
7-15-91	Des Moines Independent School District - North High School	Site Registry	HC	Murphy	Hearing continued.
7-22-91	Rupp Tire	Administrative Order	UT	Wornson	Hearing set for 12/4/92.
7-24-91	Alter Trading Corp. (Davenport)	Administrative Order	SW	Kennedy	Negotiating before filing.
7-27-91	Chicago North Western; Dennis Bell; Phillips Petroleum; Amoco Oil Co.	Administrative Order	HC	Murphy	Hearing continued. Compliance initiated.
8-29-91	Iowa Southern Utilities	Certificate to Construct	AQ	Preziosi	Written testimony filed.
9-04-91	Duane Arnold Energy Center	Permit Condition	WW	Hansen	Information received 3/16/92; under review by EPD.
9-16-91	Monona Co. SLF Agency	Administrative Order	SW	Kennedy	Hearing continued.
9-25-91	Archer Daniels Midland	Administrative Order	SW	Kennedy	Negotiating before filing.
9-27-91	Battle Creek, City of	Administrative Order	WS	Hansen	WS section comment letter sent 6/16/92.
10-02-91	IBP, inc. - Storm Lake	Permit Conditions	WW	Hansen	Negotiating before filing.
10-30-91	West Liberty, City of	Permit Conditions	WW	Hansen	Negotiating before filing; under review by EPD.
11-07-91	Casey's General Store (Redfield)	Administrative Order	UT	Wornson	Informal hearing held.

Environmental Protection Commission Minutes

October 1992

DATE RECEIVED	NAME OF CASE	ACTION APPEALED	PROGRAM	ASSIGNED TO	STATUS
11-14-91	Ossian, Inc.	Permit Denial	AQ	Preziosi	Settlement close.
12-03-91	State Central Bank	Administrative Order	UT	Wornson	Settlement agreed upon; final letter sent.
12-05-91	Tower Club	Administrative Order	WS	Hansen	Report submitted to EPC/under review by WS.
12-31-91	Linden Water Supply	Administrative Order	WS	Hansen	City's response by letter - 8/04/92. Dept. letter to City attorney - 9/08/92.
1-07-92	Wiota, City of	Administrative Order	WS	Hansen	Preliminary engineering report under review by WS.
1-17-92	Hickory Hollow Water Co.	Administrative Order	WS	Hansen	Ltr. received 7/28/92 regarding compliance.
1-21-92	Dell Oil, Ltd.	Administrative Order	HC	Wornson	Proposed decision - 9/30/92.
1-27-92	Heartland Lysine, Inc.	Tax Certification Denial	WW	Murphy	Negotiating before filing.
1-30-92	Center Oil Co., Inc.	Administrative Order	HC	Murphy	Negotiating before filing.
2-14-92	Ossian Chemical, Inc.	Administrative Order	AQ	Preziosi	Settlement close.
2-25-92	Wordstrom Oil Co.	Administrative Order	HC	Murphy	Negotiating before filing.
2-28-92	William H. Viner	Administrative Order	UT	Wornson	Hearing set for 11/9/92.
3-09-92	Iowa Power, Inc.- Council Bluffs	Permit Condition	WW	Hansen	Appeal withdrawn.
3-12-92	Farmers Cooperative Elevator - Martelle	Administrative Order	HC	Murphy	Negotiating before filing.
3-23-92	Partners-Four Investments- Rockwell	Administrative Order	UT	Wornson	Negotiating before filing-penalty only.
3-23-92	Partners-Four Investments- Marble Rock	Administrative Order	UT	Wornson	Negotiating before filing-penalty only.
3-30-92	White Consolidated Industries	Administrative Order	WW	Hansen	Negotiating before filing.
4-01-92	Rocky Nook Resort	Administrative Order	WS	Hansen	Settled.
4-03-92	Charles P. Schafer; Stringtown Properties; First Community National Bank	Administrative Order	UT	Wornson	Schedule informal hearing.
4-06-92	Community Cooperative Oil Co. - Marcus	Administrative Order	UT	Wornson	Site check complete; negotiating penalty.
4-07-92	Humboldt Co. Sanitary Landfill	Administrative Order	SW	Kennedy	Hearing continued to 11/20/92.
4-09-92	Wayne Transports, Inc.	Administrative Order	WW	Murphy	Negotiating before filing.
4-13-92	Stringtown Country Cafe	Administrative Order	WS	Hansen	Emergency AO issued supplementing 2nd Emergency AO
4-14-92	Clement Auto & Truck, Inc.	Administrative Order	UT	Wornson	Closure complete. Negotiating penalty.
4-15-92	Hulgreve Oil Co.	Administrative Order	HC	Murphy	Negotiating before filing
4-16-92	Swaledale, City of	Administrative Order	WS	Hansen	DNR response 7/28/92; request further work.
4-17-92	John M. Staub d/b/a Mr. Convenient	Administrative Order	UT	Wornson	Site check rejected.
4-24-92	Charles A. Kerr	Administrative Order	UT	Wornson	Financial inability claimed. Requesting document.
4-30-92	Poweshiek Water Assoc.	Administrative Order	WS	Hansen	Negotiating before filing.
5-05-92	Lincoln Farm & Home Service	Administrative Order	WW	Murphy	Negotiating before filing.
5-05-92	Plymouth Cooperative Oil Co.	Administrative Order	WW	Murphy	Negotiating before filing.
5-12-92	Paris & Sons, Inc.	Site Registry	HC	Murphy	Negotiating before filing.
5-15-92	Heartland Lysine, Inc.	Tax Certification	AQ	Preziosi	Negotiating before filing.

5-27-92	Beckett Chevrolet-Olds	Administrative Order	UT	Wornson	Financial inability claimed. Request documents.
6-05-92	Wilson Foods	Permit Denial	AQ	Preziosi	Negotiating before filing.
6-15-92	Country Estates MHP	Administrative Order	WS	Clark	Negotiating before filing.
6-15-92	Rockford Golf & Country Club	Administrative Order	WS	Clark	Negotiating before filing.
6-18-92	William W. Lindgren	Permit Issuance	FP	Clark	Settled.
6-23-92	Chickasaw County Board of Supervisors, Chickasaw Co. SLF	Administrative Order	SW	Kennedy	Negotiating before filing.
6-24-92	Karl Ludwig	Administrative Order	UT	Wornson	Amended AO - added parties.
6-26-92	Waste Systems Corp. and Robert Roth d/b/a Winnebago County Sanitary Landfill	Administrative Order	SW	Kennedy	Negotiating before filing.
7-01-92	Richard A. Newman	Administrative Order	SW	Kennedy	Negotiating before filing.
7-01-92	Des Moines Independent School District-North High	Administrative Order	WW	Murphy	Negotiating before filing.
7-15-92	Gerks Seasonal MHP and Resort	Administrative Order	WS	Hansen	DNR letter sent 9/9/92.
7-17-92	PAM Fuels, Inc.	Administrative Order	UT	Wornson	Negotiating before filing.
7-24-92	LaVerne Rehder	Administrative Order	UT	Wornson	Compliance initiated; informal settlement.
7-28-92	Xenia Rural Water District (East)	Administrative Order	WS	Hansen	Penalty paid. Settled.
8-06-92	Randy Bonin and Vickie Brannick	Administrative Order	SW	Kennedy	Negotiating before filing.
8-13-92	Ida County Sanitary Landfill	Administrative Order	SW	Kennedy	Negotiating before filing.
8-13-92	Iowa Conference of the United Church of Christ	Administrative Order	FP	Clark	Negotiating before filing.
8-21-92	Timberlane Addition	Administrative Order	WS	Hansen	Settled.
8-24-92	Dean Hoeness d/b/a Hoeness & Sons	Administrative Order	UT	Wornson	Financial inability claimed. Request documents.
8-27-92	Decatur City, City of	Administrative Order	UT	Wornson	Negotiating before filing.
8-31-92	Leisure Lake Inn	Administrative Order	WS	Hansen	Negotiating before filing.
8-31-92	Cedar Valley Corp.	Administrative Order	AQ	Preziosi	New case.
9-02-92	South High Point Well Assn. #1	Administrative Order	WS	Hansen	New case.
9-03-92	Case Power and Equipment	Administrative Order	WS	Hansen	Negotiating before filing.
9-14-92	Pony Creek Park - Mills County Conservation Board	Administrative Order	WS	Hansen	New case.
9-14-92	Lisbon, City of	Administrative Order	WS	Clark	New case.
9-21-92	Buffalo Bill Estates, Inc.	Administrative Order	WS	Clark	New case.
9-21-92	ITWC	Administrative Order	AQ	Preziosi	New case.
9-22-92	King's Terrace MHP	Administrative Order	WW	Murphy	Negotiating before filing.

INFORMATIONAL ONLY

AIR QUALITY STATE IMPLEMENTATION PLAN REVISIONS

Allan Stokes, Division Administrator, Environmental Protection Division, presented the following item.

The Clean Air Act Amendments of 1990 require that each state revise its State Implementation Plan to include a small business stationary source technical and environmental compliance assistance program. A draft of Iowa's plan is attached for your information.

A Public Hearing to receive comments on the plan will be held on November 17, 1992. Comments received will be summarized and incorporated into the plan where appropriate.

The Department intends to submit the plan to EPA in late December.

A copy of the State Implementation Plan Revisions is on file in the department's Records Center.

Mr. Stokes gave a brief explanation of the plan revisions.

Brief discussion followed.

INFORMATIONAL ONLY

NOTICE OF INTENDED ACTION--CHAPTER 102, SOLID WASTE FINANCIAL ASSURANCE RULES

Allan Stokes, Division Administrator, Environmental Protection Division, presented the following item.

Iowa Code 455B.306 requires operators of sanitary disposal projects to provide financial assurance for the cost of closure and post closure care.

It is proposed that Chapter 102 be amended to establish the requirements for financial assurance, the mechanisms to satisfy the financial assurance requirements, and the financial instruments associated with each mechanism.

The proposed rule include a definition for "operator" and "Publicly owned sanitary disposal project" which applies only to rule 102.16 through 102.18.

(Rule is shown on the following 39 pages)

ENVIRONMENTAL PROTECTION COMMISSION [567]
Notice of Intended Action

Pursuant to Iowa Code 455B.304, the Environmental Protection Commission proposes to adopt amendments to 567--Chapter 102 "Permits,"

In 1987, the Iowa Legislature amended Chapter 455B and required operators of sanitary disposal projects to have financial assurance instruments. In accordance with 455B.306, "a person operating or proposing to operate a sanitary disposal project shall provide a financial assurance instrument to the department prior to initial approval of a permit or renewal of a permit for an existing or expanding facility beginning July 1, 1988." As a result of the amendments which established the requirement for disposal projects to demonstrate financial responsibility for the costs of closure, post-closure care, the existing rules in 567--102 must be expanded to identify acceptable financial instruments.

The amendments may economically impact small businesses.

Any interested party may file written comments on the proposed rules through December 14, 1992. Such written materials should be directed to Iowa Department of Natural Resources, 900 East Grand, Des Moines, Iowa 50319-0034; FAX 515/281-8895. Persons are also invited to provide oral and written comments at public hearings to be held on December 2, 1992, at the Iowa City Public Library at 2:00 p.m.; on December 3, 1992, at the Municipal Building in Atlantic, Iowa at 1:00 p.m. and on December 4, 1992 at the Wallace State Office Building in Des Moines in the 4th floor East conference room at 1:00 p.m.

The following amendments are proposed:

ITEM 1. Amend Chapter 102 by adding the following new rule 567--102.16(455B):

567--102.16(455B) Financial assurance for closure and postclosure care. The owner or operator of a sanitary disposal project shall establish financial assurance using one of the financial assurance mechanisms in rule 102.17 and 102.18 for closure and postclosure care to ensure compliance with the approved closure and postclosure plans of the facility and Chapters 567--102, 103, 104, 105 and 106. The following definitions apply only to rule 567--102.16 through 102.18.

"Operator" means the private or public agency responsible for the overall operation of a sanitary disposal project. "Publicly owned sanitary disposal project" means a sanitary disposal project owned by local, state, or federal government, including cities, counties, and public agencies created under Iowa Code Section 28E.

102.16(1) Compliance with financial assurance.

a. An owner or operator proposing to operate or operating a sanitary disposal project shall submit an originally signed duplicate of the financial assurance instrument(s) prior to the initial issuance of a permit, prior to renewal of a permit for an existing or expanding facility, or prior to issuance of a permit for closure of a facility.

b. An exception to 102.16(1)a may be made when an owner or operator of an existing sanitary disposal project subject to permit renewal within less than one year of the effective date of these rules or the owner or operator of an existing sanitary disposal project where the permit has expired prior to the effective date of these rules, shall submit an originally signed duplicate of the financial assurance instrument(s) for closure and postclosure care to the director within one year of the effective date of this rule.

102.16(2) Cost estimates for closure and postclosure.

a. The owner or operator shall make a written estimate, in current dollars, of the cost of closing the facility in accordance with subrules 102.12(10), 102.14(9), and the closure plan required in 103.2(13). The closure cost estimate must equal the cost of closure at the point in the facilities life when the extent and manner of its operation would make closure most expensive, as indicated by its closure plan.

b. The owner and operator of a facility subject to postclosure monitoring or maintenance requirements shall make a written estimate, in current dollars, of its annual cost of postclosure monitoring and maintenance of the facility in accordance with postclosure requirements in subrule 103.2(14) and the postclosure plan required in

102.12(10). The owner or operator must calculate the postclosure cost by multiplying the annual postclosure cost estimate by the number of years of postclosure care required under subrule 103.2(14). The postclosure cost estimate must be adjusted for inflation expected to occur after site closure.

102.16(3) **Yearly update of cost estimate.** During the operating life of the facility, the owner or operator shall adjust the annual cost estimates required in subrule 102.16(2) for inflation and any changes in cost estimates based on revisions in the closure or postclosure plans within 30 days after each anniversary of the date on which the first cost estimates were prepared. The inflation adjustments must be made using an inflation factor derived from the annual Implicit Price Deflator for Gross National Product as found in the Survey of Current Business issued by the United States Department of Commerce. The inflation factor is the result of dividing the latest published annual deflator by the deflator for the previous year. The adjustments are made by multiplying the current cost estimate by the latest inflation factor.

102.16(4) **Annual Financial Statement.** An annual financial statement prepared by an independent certified public accountant shall be submitted to the department in accordance with Iowa Code sections 455B.306(5)c and (7)e. The statement shall include the current amounts established in each of the closure and postclosure accounts listed in 102.17, total assets including operating income, total liabilities including operating expenses, and projected amounts to be deposited in the accounts in the following year.

102.16(5) **Record Retention.** The owner and operator shall keep at the facility during the operating life of the facility, and the post closure period, the latest cost estimates prepared in accordance with subrule 102.16(2) and, when the estimates have been adjusted in accordance with subrule 102.16(3), the latest adjusted cost estimates.

102.16(6) **Use of Multiple Financial Mechanisms.** An owner or operator may satisfy the requirements of rule 102.16 by establishing more than one financial mechanism per facility. These financial mechanisms are limited to those specified in subrule 102.17(1), (3), (4), (5), (6), (7), and (8). The dedicated fund described in subrule 102.17(8)(b) may be used to assure no more than seventy five percent (~~75~~⁵⁰%) of current cost estimates and must be used in combination with another mechanism. If a combination of financial mechanisms is used, the total amount of financial assurance provided by

all mechanisms must at least equal the sum of the current cost estimates. If an owner or operator uses a trust fund in combination with a surety bond or a letter of credit, the trust fund may be used as the standby trust fund for the other mechanisms. A single standby trust fund may be established for two or more mechanisms. The director may use any or all mechanisms to provide for closure of the facility.

102.16(7) Use of Financial Assurance Mechanism for Multiple Facilities. Where one financial assurance mechanism is used for multiple facilities, evidence of financial assurance submitted to the director must include a list showing, for each facility, the permit number, name, address, and the amount of funds for closure or postclosure assured by the mechanism. The amount of funds available through the mechanism must be no less than the sum of funds that would be necessary if a separate mechanism had been established and maintained for each facility. In directing the funds available through the mechanism for closure or postclosure at any of the facilities covered by the mechanism, the director may direct only the amount of funds designated for that facility, unless the owner or operator agrees to the use of additional funds available under the mechanism.

102.16(8) Termination of a Financial Assurance Mechanism. The director shall agree to the termination of a financial assurance mechanism when:

- a. An owner or operator substitutes financial assurance mechanisms as specified in rule 102.16; or
- b. The department releases the owner or operator from the requirements of this rule in accordance with subrule 102.16(9).

102.16(9) Release of owner or operator from the financial requirements.

a. Release from closure requirements. Within 90 days after receiving certification from the owner or operator and a registered engineer in Iowa that the closure of a facility has been accomplished in accordance with the closure plan and permit, the owner or operator shall be notified in writing as soon as possible that maintenance of financial assurance for closure of the facility is no longer required unless the agency has reason to believe that closure has not been accomplished in accordance with the closure plan.

b. Release from postclosure requirements. When an owner or operator has completed to the satisfaction of the department, all postclosure care requirements in accordance with the postclosure plan and the permit and notified the department, the department will notify the owner or operator

in writing that he or she is no longer required by this rule to maintain financial assurance for postclosure care of the particular facility, unless the department has reason to believe that postclosure care has not been accomplished in accordance with the postclosure care plan.

102.16(10) Incapacity of owners or operators, guarantors, or financial institutions.

a. Notification of bankruptcy. An owner or operator shall notify the director by certified mail of the commencement of a voluntary or involuntary bankruptcy proceeding naming the owner or operator as a debtor, within ten days after commencement of the proceeding.

b. Incapacity of financial institutions. An owner or operator will be considered to be without the required financial assurance in the event the trustee or issuing institution is granted Chapter 11 bankruptcy or the authority of the trustee or the institution issuing the bond or letter of credit has been suspended or revoked. The owner or operator shall establish other financial assurance within 60 days after such an event.

102.16(11) Allocation of current account balances.

a. Money in the accounts established for the purpose of demonstrating financial assurance for the purposes set forth in this chapter and subject to bankruptcy shall not be assigned for the benefit of creditors with the exception of the state.

b. Money in an account established for the purpose of demonstrating financial assurance for the purposes set forth in this chapter shall not be used to pay any final judgment against a licensee arising out of the ownership or operation of the site during its active life or after closure.

ITEM 2. Amend Chapter 102 by adding the following new rule 567--102.17(455B):

567--102.17(455B) Financial assurance mechanisms. Owners or operators must choose from one or more of the following financial assurance mechanisms to satisfy the requirements imposed by this chapter and Iowa Code section 455B.306 for closure and post-closure care.

102.17(1) Trust fund.

a. An owner or operator may satisfy the requirements of rule 102.16(455B) by establishing a trust fund which conforms to the requirements of this subrule. An originally signed duplicate of the trust agreement shall be submitted to the director. The trustee shall be an entity which has the authority to act as a trustee and whose trust operations are regulated and examined by a Federal or State agency.

b. The wording of the trust agreement must be identical to the wording specified in subrule 102.18(1) "Trust Agreement", and must be accompanied by a formal certification of acknowledgement specified in subrule 102.18(1). The trust agreement must be updated within 60 days after a change in the amount of the current cost estimates covered by the agreement.

c. The owner or operator must make annual payments into the trust fund over the term of the operating life of the site as follows:

(1) For a new facility, the first payment must be made within one year and 15 days after the initial receipt of solid waste. The owner or operator must submit to the director a receipt from the trustee within 10 days after payment. The first payment must be at least equal to the sum of the current cost estimates divided by the number of years in the operating life of the site. Subsequent annual payments must be made on or before the anniversary month and day of the first payment. The amount of each subsequent payment is to be determined by the following formula:

$$\text{Next payment} = \frac{\text{CE} - \text{CV}}{\text{Y}}$$

where "CE" is the sum of the current updated cost estimates, "CV" is the current value in the trust fund, "Y" is the number of years, remaining in the operating life of the site.

(2) For an existing facility, the first payment must be made within one year and 15 days of submittal of the financial instrument to the director. The owner or operator must submit to the director a receipt from the trustee for this payment within ten days after payment is made. The first payment must be at least equal to the sum of the current cost estimates divided by the number of years remaining in the operating life of the site. Subsequent payments must be made on or before the anniversary month and day of the first payment. The amount of each subsequent payment must be determined by formula in subparagraph 102.17(1)c(1) of this subrule.

(3) The pay-in amount for an existing facility need not exceed the previous year's tipping fee. If the owner or operator does not charge a tipping fee or uses more than one source of revenue for the facility, then the pay-in amount per ton need not exceed the previous year's gross revenues divided by the previous year's waste tonnage. The pay-in amount will increase annually until it meets the payment as calculated in subparagraph 102.17(1)c(1). The owner or operator must receive prior approval from the department before using this pay-in method. This method cannot be used

if the estimated closure and postclosure costs cannot be met within the remaining site life.

(4) The owner or operator must estimate the operating life of the site annually and revise the annual payments accordingly. The revisions must be made no later than the anniversary date of submittal of the financed instrument to the director.

(5) The owner or operator of an existing facility may request a different pay-in schedule than required in subparagraphs 102.17(1)c(1)(2) and (3) if the facility will not be able to meet the required payments. The proposed pay-in schedule must be able to meet the current cost estimates for closure and postclosure within the remaining operating life of the site. Supporting documentation must at least include:

- (a) Balance sheets and income statements for the past three years;
- (b) Current measurements and future estimates of waste flow into the facility;
- (c) Future operating income and expense for at least ten years;
- (d) Any other information that the owner or operator believes relevant.

d. The owner or operator may accelerate payments into the trust fund or may deposit the full amount of the sum of the current estimates at the time the fund was established. However, the owner or operator must maintain the value of the fund at no less than the value that the fund would have if annual payments were made as specified in paragraph 102.17(1)c of this subrule.

e. If the owner or operator establishes a trust fund after having used one or more other financial assurance mechanisms specified in rule 102.17 of this chapter, the first payment into the trust fund must be equal to at least the amount that the fund would contain if the trust fund were established initially and the annual payments made according to specifications of this subrule.

f. If the sum of the current cost estimates change, the owner or operator shall compare the new estimates with the trustee's most recent annual valuation of the trust fund. If the value of the fund is less than the amount of the new estimates, the owner or operator, within sixty (60) days after the change in the cost-estimates, shall either change the trust fund pay-in schedule so that it incorporates the changes in the sum of the current cost estimates, and submit evidence of this change to the director, or establish other financial assurance mechanisms as specified in this rule.

g. If, during the operating life of the facility, the value of the trust fund is greater than the sum of the current cost estimates, the owner or operator may submit a written request together with supporting documents to the

director for release of the amount in excess of the current cost estimates.

h. If the owner or operator substitutes other financial assurance mechanisms as specified in this rule for all or part of the trust fund, the owner or operator may submit a written request to the director for release of the amount in excess of the closure cost estimates covered by the fund.

i. Within sixty (60) days after receiving a request from the owner or operator for release of funds specified in paragraphs 102.17(1) (g) or (h), the director shall instruct the trustee to release to the owner or operator such funds that are in excess of the latest cost estimates covered by the trust fund.

j. The trustee shall notify the owner or operator and the director by certified mail within ten (10) days if a payment is not made on the required date. If the required payment is not made within sixty (60) days of the director's receipt of the nonpayment notice, the owner or operator must stop accepting waste and shall close the facility as provided in subrule 103.2(13).

k. The trustee shall submit an annual evaluation of the account on the anniversary date of creation of the trust to the owner or operator and the director.

l. After beginning actions at the facility in closure or postclosure care, an owner, operator, or other person authorized to perform those actions may request reimbursement for expenditures on completed work by submitting itemized bills to the director. Within ninety (90) days after receiving bills for closure or postclosure activities, the director shall determine whether the expenditures are in accordance with the appropriate plan or are needed to ensure proper closure and postclosure care. The director shall then instruct the trustee to make reimbursement in the amounts the director specifies in writing.

m. A trust fund that receives payments from more than one owner or operator for financial assurance at different sites shall operate like a trust fund specified in this subrule, except that:

(1) The trustee shall maintain a separate account for each site and shall evaluate each account annually as of the day of creation of the trust.

(2) The trustee shall annually notify each owner or operator and the director of the evaluation of each owner's or operator's account.

(3) the trustee shall release excess funds as required from the account for each site.

(4) The trustee shall reimburse the owner or operator or other person authorized to perform closure or postclosure care only from the account for that site at the request of the Director in accordance with 102.17(1)1

(5) The department may direct the trustee to withhold payments only from the account for the site for which it has reason to believe the cost of closure or postclosure care will be greater than the value of the account.

102.17(2) Standby Trust. An owner or operator using any of the mechanisms authorized by 102.17(3), 102.17(4), or 102.17(5) must establish a standby trust when the mechanism is acquired and must be worded identical to the wording specified in subrule 102.18(1). The standby trust will be used to receive payment if the owner or operator fails to perform as required. An annual payment into the standby trust based on waste tonnage is not required.

102.17(3) Surety bond guaranteeing payment or performance.

a. An owner or operator may satisfy the requirements of this rule by obtaining a performance surety bond that conforms to the requirements of this subrule and submitting the bond to the director. The surety company issuing the bond must be among those listed as acceptable sureties on federal bonds in Circular 570, issued by the United States Department of Treasury, as published annually in the Federal Register on July 1.

b. The wording of the surety bond guaranteeing payment shall be identical to the wording specified in subrule 102.18(2) and a surety bond guaranteeing performance identical to the wording specified in subrule 102.18(3).

c. The owner or operator who uses the surety bond to satisfy the requirements of this rule shall also establish a standby trust fund. Under terms of the bond, the surety will deposit all payments made under the bond directly into the standby trust fund in accordance with instructions from the director. This standby trust must meet the requirements specified in 102.18(1) except that the originally signed duplicate of the trust agreement must be submitted to the director with the surety bond.

d. The bond must guarantee that the owner or operator will:

(1) Under a bond guaranteeing payment, place a specified amount, the penal sum, into the standby trust when requested by the director; or

(2) Under a bond guaranteeing performance, complete the work in accordance with the appropriate plans and other requirements of the permit for the facility whenever required to do so by the director; or

(3) Provide alternate financial assurance as specified in this rule, and obtain the director's written approval of the assurance provided, within 90 days after receipt by both the owner or operator and the director of a notice of cancellation of the bond from the surety.

e. Under terms of the bond, the surety will become liable on the bond obligation when the owner or operator fails to make payment into the trust or perform as guaranteed by the bond. Following a determination by the director that the owner or operator has failed to make payment in the trust or to perform final closure and/or post-closure care in accordance with the appropriate plan and other permit requirements when required to do so, under the terms of the bond the surety shall deposit the amount of the penal sum into the standby trust fund.

f. The penal sum of the bond must at least equal the sum of the current cost estimates.

g. Whenever the sum of the current cost estimates becomes greater than the penal sum, the owner or operator, within 60 days after the increase, shall either increase the penal sum of an amount at least equal to the current cost estimates and submit evidence of the increase to the director, or obtain other financial assurance as specified in this rule to cover the increase. Whenever the current cost estimates decrease, the penal sum shall be reduced to the amount of the current cost estimates following written approval by the director.

h. Under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the owner or operator and to the director. However, cancellation is not effective until 120 days after the director has received the notice of cancellation, as evidenced by the returned receipts.

i. The owner or operator may cancel the bond if the director has given prior written consent based on the director's receipt of evidence of alternate financial assurance as specified in this rule.

j. The surety will not be liable for deficiencies in the performance of closure and/or postclosure by the owner or operator after the department releases the owner or operator from the financial requirements of subrule 102.16(8).

102.17(4) Letter of credit.

a. An owner or operator may satisfy the requirements of rule 102.16 by obtaining an irrevocable letter of credit which conforms to the requirements of this subsection, and by submitting the letter to the director. The issuing institution must be an entity within the state of Iowa which has the authority to issue letters of credit. Its letter of credit operations must be regulated and examined by a federal or state of Iowa agency.

b. The wording of the letter of credit must be identical to the wording specified in subrule 102.18(4) and must be effective before the initial receipt of waste or before the effective date of this rule (,1993).

c. An owner or operator who uses a letter of credit to satisfy the requirements of this rule shall also establish a

standby trust fund. Under terms of the letter of credit, the issuing institution will deposit all amounts paid directly into the standby trust fund in accordance with instructions from the director. This standby trust fund must meet the requirements of subrule 102.18(1) except that an originally signed duplicate of the trust agreement must be submitted to the director with the letter of credit.

d. The letter of credit must be accompanied by a letter from the owner or operator referring to the letter of credit by number, issuing institution, and date, and providing the following information: the identification number, name and address of the facility, and the amount of funds assured for closure and/or postclosure by the letter of credit.

e. The letter of credit must be irrevocable and issued for a period of at least one year. The letter of credit must provide that the expiration date will be extended automatically for a period of at least one year unless, at least 120 days prior to the current expiration date, issuing institution notifies both the owner or operator and the director by certified mail of a decision not to extend the expiration date. Under terms of the letter of credit, the 120 days will begin on the date the director has received the notice, as evidenced by the return receipt.

f. The letter of credit must be issued in an amount at least equal to the current cost estimates.

g. Whenever the sum of the current cost estimates becomes greater than the amount of credit, the owner or operator, within 60 days after the increase, shall either cause the amount of the credit to increase so that it at least equals the sum of the current cost estimates and shall submit evidence of the increase to the director or obtain other financial assurance as specified in this rule to cover the increase. Whenever the sum of the current cost estimates decreases, the amount of the credit shall be reduced to the amount of the current cost estimates following written approval by the director.

h. Following a determination by the director that the owner or operator has failed to perform closure and/or postclosure in accordance with the plan and other permit requirements when required to do so, the director shall draw on the letter of credit.

i. The director shall draw on the letter of credit if the owner or operator does not establish alternate financial assurance as specified in this rule and obtain written approval of alternate assurance from the director within 90 days after the director receives notice from the credit issuing institution. The director may delay the withdrawing if the issuing institution grants an extension of the term of credit. During the last 30 days of any extension, the director shall draw the letter of credit if the owner or operator has failed to provide alternate financial assurance

as specified in this section and obtain written approval of the assurance from the director.

102.17(5) Self-insurance. An owner or operator may satisfy the requirements of financial assurance by demonstrating the ability to pass the financial test as specified in this subrule and demonstrating financial strength with collateral.

a. An owner or operator of a privately owned facility wanting to use this financial assurance mechanism must submit to the director:

(1) Unsubordinated debentures with market value equal to or exceeding the sum of the current closure/post-closure cost estimates;

(2) A letter, as specified in subrule 102.18(5), signed by the chief financial officer certifying that the owner or operator passes the following tests:

(a) At least two of the three following ratios:

- $\frac{\text{(total liabilities)}}{\text{(net worth)}}$

= less than 2.0

- $\frac{\text{(cash flow)}}{\text{(total liabilities)}}$

= greater than 0.1

- $\frac{\text{(current assets)}}{\text{(current liabilities)}}$

= greater than 1.5

(b) Net working capital and tangible net worth at least six times the current cost estimates for all owned or operated waste facilities;

(c) Tangible net worth of at least \$10,000,000; and

(d) Assets in the United States equal to at least 90 percent of the owner's or operator's total assets or at least six times the current cost estimates for all owned or operated facilities.

(3) As an alternative, in addition the requirements of 102.17(5) "b"(1) "c" and "d" the owner or operator:

(a) May substitute for the requirements of 102.17(5) "a"(2)(a) a current rating for its most recent bond issue which must be of AAA, AA, A, or BBB as issued by Standard and Poor or AAA, AA, A or BAA as issued by Moody's; and

(b) Substitute the net working capital requirement from element 102.17(5)(1)(b) with a demonstration of tangible net worth at least six times the sum of the current closure and post-closure estimates.

(4) A copy of the owner's or operator's financial statements for the latest completed fiscal year with an independent certified public accountant's report on examination of the financial statements.

b. The owner or operator of privately owned facilities shall submit a special report from an independent certified public accountant certifying the validity of:

(1) the latest financial statement;

- (2) the data used to pass the financial test; and
- (3) the valuation of the bonds submitted as collateral.

c. After initial submission of the information specified in paragraphs 102.17(5) a, b, or c, the owner or operator shall send updated financial data and reports to the director within 90 days after the close of each succeeding year. If the owner or operator no longer meets the requirements of the financial test, the owner or operator shall send notice to the director of intent or established alternate financial assurance. The notice must be sent by certified mail within 90 days after the end of the fiscal year for which the year-end financial data show that the owner or operator no longer meets the requirements.

d. The director shall not allow the use of self-insurance if:

(1) The accountant's opinions required in paragraph c. include an adverse opinion or a disclaimer of opinion;

(2) The opinion includes qualifications that relate to the numbers that are used in the gross revenue test or the financial test; or

(3) In light of the qualifications, the owner or operator has failed to demonstrate that it meets the gross revenue or the financial test.

e. An owner or operator may satisfy the financial assurance requirements of rule 102.16 by obtaining a corporate guarantee, from a parent corporation. If the owner or operator makes the self-insurance demonstration through the use of a corporate guarantee, the parent corporation must be the entity that issues the bonds that are sent to the director.

The guarantor must be the parent corporation of the owner or operator, must meet the requirements for facility owners or operators in this subrule, and must comply with the terms of the corporate guarantee. The wording of the corporate guarantee must be identical to the wording specified in subrule 102.18(7). The corporate guarantee must accompany the items sent to the director as specified in paragraph b. The terms of the corporate guarantee must provide:

(1) If the owner or operator of a facility covered by the corporate guarantee fails to perform closure or post-closure care in accordance with the appropriate plan and other permit requirements whenever required to do so, the guarantor shall do so or establish a standby trust fund as specified in subrule 102.17(2) in the name of the owner or operator.

(2) The corporate guarantee remains in force unless the guarantor sends notice of cancellation by certified mail to the owner or operator and the director. Cancellation may not occur, however, during 120 days beginning on the date of receipt of the notice of cancellation by the director, as evidenced by the return receipt.

(3) If the owner or operator fails to provide alternate financial assurance as specified in this rule and fails to obtain the written approval of financial assurance from the direction within 90 days after receipt by the director of a notice of cancellation of the corporate guarantee from the guarantor, the guarantor shall provide alternate financial assurance in the name of the owner or operator.

(4) The bonds sent to the director under this subrule must be readily salable in secondary bond markets. the market value of the bonds must equal or exceed thee sum of the current cost estimates. The director shall give the owner or operator a receipt for the bonds. The director shall have the bonds kept by the state treasurer until the bonds must either be sold or returned to the owner or operator.

f. The owner or operator who uses self-insurance to satisfy the requirements of rule 102.16 shall also establish a standby trust-fund. The standby trust fund must meet the requirements in subrule 102.17(2), except that an originally signed duplicate of the trust agreement must be submitted to the director with the bonds or warrant.

g. If the sum of the current cost estimates changes, the owner or operator shall compare the new estimate with the most recent annual valuation of the bonds or the value of the warrant. If the total market value of the bonds is less than the amounts of the new estimates, the owner or operator shall, within 60 days after the change in the cost estimates, send to the director either enough bonds to make up the deficiency or establish other financial assurance mechanisms as specified in this rule. If the owner or operator sends in more bonds, the bonds must be accompanied by an independent certified public accountant's report that the new issues have a market value that equals or exceeds the amount of deficiency.

h. The owner or operator may request to exchange new issues of bonds held by the state treasurer on the director's behalf. The new issues must have a market value equal to the bonds for which they are exchanged. The owner's or operator's request for a bond exchange must be accompanied by an independent certified public accountant's report that the new issues have a market value equal to the bonds for which they are exchanged. The director shall make the exchange after receiving the request, the bonds, and the accountant's report. The director and the owner or operator shall provide each other with receipts appropriate to document the exchange.

i. If during the operating life of the facility, the total market value of the bonds exceeds the sum of the current cost estimates by an amount greater than the market value of any single bond, the owner or operator may submit a written request together with supporting documents to the director

for return of bonds whose total value is not greater than the excess amount.

j. If the owner or operator substitutes other financial assurance mechanisms as specified in this rule in place of self-insurance, the owner or operator may submit a written request to the director for return of the bonds or warrants along with evidence of the substitute mechanisms have taken effect.

k. Within 60 days of receiving a request from the owner or operator for return of bonds as specified in paragraphs i and j and if supporting documents support such request, the director shall return the warrants or appropriate number of bonds. The owner or operator shall give the director an appropriate receipt for all warrants or bonds returned.

l. If the owner or operator asks for an adjustment under paragraph i, the director shall:

(1) Return bonds of total market value that does not exceed the difference between the sum of the previous cost estimates and the sum of the revised cost estimates.

(2) If the owner or operator asks for a return of securities under paragraph j when a partial substitution of other financial assurance mechanisms for self-insurance has been made, the director shall return the bonds of total market value that does not exceed the difference between the sum of the current cost estimates and the amount of financial assurance offered by substitute mechanisms.

m. If the owner or operator asks for a return of securities under paragraph j when a full substitution of other financial assurance mechanisms has been made, the director shall return all bonds. If the owner, operator, or guarantor, after proper orders from the director, fails or refuses to perform actions specified in the closure plan or the post closure plan, the director shall seek authorization from the department to sell bonds or submit warrants for payment. The director shall also seek, if the owner or operator fails the criteria of the financial test and fails to provide alternate financial assurance within 90 days, as provided in paragraph b. The director shall have the proceeds from the bond sales or warrant payments deposited in the standby trust fund established under paragraph f.

102.17(6) Bond Rating Test.

a. An owner or operator of a publicly owned facility or a local government serving as a guarantor may satisfy the requirements of 567 IAC 102.16(455B) by having a currently outstanding issue or issues of general obligation bonds of \$1 million or more, excluding refunded obligations, with a Moody's rating of Aaa, Aa, A, or Baa, or a Standard and Poor's rating of AAA, AA, A, or BBB.

b. The owner or operator of a publicly owned facility or a local government serving as a guarantor wanting to sue this financial assurance mechanism must submit to the director:

(1) A copy of a dated bond rating certification signed by a representative from the bond rating agency.

(2) A copy of a letter signed by the chief financial officer of the local government owner or operator and/or guarantor worded exactly as specified in 102.18(8), except that the instructions in brackets are to be replaced by the relevant information and the brackets deleted.

102.17(7) Local Government Guaranty

a. The owner or operator of a publicly owned facility may satisfy the requirement of 567 IAC 102.16 (455B) by obtaining a guaranty that conforms to the requirements of this subrule. The guarantor must be a local government having a substantial governmental relationship with the owner and operator pursuant to and in furtherance of the objectives of an agreement between said parties entered into under Iowa Code Chapter 28E and must issue the guaranty as an act incident to that relationship. A local government acting as the guarantor must:

(1) Demonstrate that it meets the bond rating test requirement of subrule 102.17(6) and deliver a copy of the chief financial officer's letter as contained in subrule 102.18(8) to the local government owner or operator; or

(2) Demonstrate that it meets the local government dedicated fund test of subrule 102.17(8) and deliver a copy of the guaranty as contained in subrule 102.18(9) to the local government owner or operator.

b. The local government guaranty must be worded as specified in subrule 102.18(9), except that instructions in brackets are to be replaced with relevant information and the brackets deleted.

102.17(8) Local Government Dedicated Fund.

a. The owner or operator of a publicly owned facility or local government serving as a guarantor may satisfy the requirements of 567 IAC 102.16 (455B) by establishing a dedicated fund or account that conforms to the requirements of this section. A dedicated fund will be considered eligible if it meets one of the following requirements:

(1) The fund is dedicated by state constitutional provision, or local government statute, charter, ordinance, or order to pay for closure and post-closure costs arising from the operation of sanitary disposal projects and is funded for the full amount of coverage or funded for part of the required amount of coverage and used in combination with other mechanism(s) that provided the remaining coverage; or

(2) The fund is dedicated by state constitutional provision, or local government statute, charter, ordinance,

or order as a reserve fund is funded for no less than the full amount of coverage or funded for part of the required amount of coverage and used in combination with other mechanism(s) that provide the remaining coverage.

b. The owner or operator of a publicly owned facility or local government serving as a guarantor may partially satisfy the requirement of 567 IAC 102.16 (455B) by establishing a dedicated fund or account that conforms to the following requirements. This dedicated fund may be used to provide financial assurance for no more than fifty percent (50%) of current costs as required by 567 IAC 102.16 (455B).

(1) The fund must be dedicated by state or local government statute, charter, resolution, ordinance, or order to pay for closure and/or post-closure costs arising from the operation of sanitary disposal projects. A payment must be made into the fund at least once every year for each year remaining in the active lifetime of the project or for seven (7) years, whichever period is greater. This period is hereafter referred to as the "pay-in-period." The minimum amount of each annual payment must be determined by this formula:

$$\frac{TF-CF}{Y}$$

Where TF is the total required financial assurance for the owner or operator, CF is the current amount in the fund, and Y is the number of years remaining in the pay-in-period, and:

(2) The local government owner or operator has bonding authority, approved through voter referendum or following public hearing (if such approval is necessary prior to the issuance of bonds), in an amount equal to the difference between the required amount of coverage and the amount held in the dedicated fund. This bonding authority must be available for closure and post-closure activities arising from the operation of the facility identified herein; and

(3) The chief financial officer of the local government owner or operator certifies to the director that the use of the bonding authority will not increase the local government's debt beyond the legal debt limit established by state law and that prior voter approval is not necessary before use of the bonding authority.

ITEM 3. Amend Chapter 102 by adding the following new rule 567--102.18(455B):

567--102.18(455B) Financial Assurance Instruments

102.18(1) Trust Fund Agreement. A trust fund agreement for a trust fund, as specified in 102.17(1), 102.17(2), of this chapter, must be worded as follows, except that

instructions in brackets are to be replaced with the relevant information and the brackets deleted:

Trust Agreement, the "Agreement," entered into as of [date] by and between [name of the owner or operator], a [name of State] [insert "corporation," "partnership," "association," or "proprietorship"], the "Grantor," and [name of corporate trustee], [insert "Incorporated in the State of --" or "a national bank"], the "Trustee."

Whereas, the Iowa Department of Natural Resources (DNR), an agency of the State of Iowa has established certain rules applicable to the Grantor, requiring that an owner or operator of a solid waste management facility shall provide assurance that funds will be available when needed for closure and/or post-closure care of the facility.

Whereas, the Grantor has elected to establish a trust to provide all or part of such financial assurance for the facilities identified herein.

Whereas, the Grantor, acting through its duly authorized officers, has selected the Trustee to be the trustee under this agreement, and the Trustee is willing to act as trustee.

Now, Therefore, the Grantor and the Trustee agree as follows:

Section 1, Definitions. As used in this Agreement:

(a) The term "Grantor" means the owner or operator who enters into this Agreement and any successors or assigns of the Grantor.

(b) The term "Trustee" means the Trustee who enters into this Agreement and any successor Trustee.

Section 2. Identification of Facilities and Cost Estimates. This Agreement pertains to the facilities and cost estimates identified on attached Schedule A [on Schedule A, for each facility list the DNR Identification Number, name, address, and the current closure and/or post-closure cost estimates, or portions thereof, for which financial assurance is demonstrated by this Agreement].

Section 3. Establishment of Fund. The Grantor and the Trustee hereby establish a trust fund, the "Fund," for the benefit of DNR. The Grantor and the Trustee intend that no third party have access to the Fund except as herein provided. The Fund is established initially as consisting of the property, which is acceptable to the Trustee, described in Schedule B attached hereto. Such property and any other property subsequently transferred to the Trustee is referred to as the Fund, together with all earnings and profits thereon, less any payments or distributions made by the Trustee pursuant to this Agreement. The Fund shall be held by the Trustee, IN TRUST, as hereinafter provided. The

Trustee shall not be responsible nor shall it undertake any responsibility for the amount or adequacy of, nor any duty to collect from the Grantor, any payments necessary to discharge any liabilities of the Grantor established by DNR.

Section 4. Payment for Closure and Post-Closure Care. The Trustee shall make payments from the Fund as the DNR Director shall direct, in writing, to provide for the payment of the costs of closure and/or post-closure care of the facility is covered by this Agreement. The Trustee shall reimburse the Grantor or other persons as specified by the DNR Director from the Fund for closure and post-closure expenditures in such amounts as the DNR Director shall direct in writing. In addition, the Trustee shall refund to the Grantor such amounts as the DNR Director specifies in writing. Upon refund, such funds shall no longer constitute part of the Fund as defined herein.

Section 5. Payments Comprising the Fund. Payments made to the Trustee for the Fund shall consist of cash or securities acceptable to the Trustee.

Section 6. Trustee Management. The Trustee shall invest and reinvest the principal and income of the Fund and keep the Fund invested as a single fund, without distinction between principal and income, in accordance with general investment policies and guidelines which the Grantor may communicate in writing to the Trustee from time to time, subject, however, to the provisions of this Section. In investing, reinvesting, exchanging, selling, and managing the Fund, the Trustee shall discharge this duties with respect to the trust fund solely in the interest of the beneficiary and with the care, skill, prudence, and diligence under the circumstances then prevailing which persons of prudence, acting in a like capacity and familiar with such matters, would use in the conduct of an enterprise of a like character and with like aims; except that:

(i) Securities or other obligations of the Grantor, or any other owner or operator of the facilities, or any of their affiliates as defined in the Investment Company Act of 1940, as amended, 15 U.S.C. 80a-2.(a), shall not be acquired or held, unless they are securities or other obligations of the Federal or a State government;

(ii) The Trustee is authorized to invest the Fund in time or demand deposits of the Trustee, to the extent insured by an agency of the Federal or State government; and

(iii) The Trustee is authorized to hold cash awaiting investment or distribution uninvested for a reasonable time and without liability for the payment of interest thereon.

Section 7. Commingling and Investment. The Trustee is expressly authorized in its discretion:

(a) to transfer from time to time any or all of the assets of the Fund to any common, commingled, or collective trust fund created by the Trustee in which the Fund is eligible to participate, subject to all of the provisions thereof, to be commingled with the assets of other trusts participating therein; and

(b) to purchase shares in any investment company registered under the investment Company Act of 1940, 15 U.S.C. 80a-1 et seq., including one which may be created, managed, underwritten, or to which investment advice is rendered or the shares of which are sold by the Trustee. The Trustee may vote such shares in its discretion.

Section 8. Express Powers of Trustee. Without in any way limiting the powers and discretions conferred upon the Trustee by the other provisions of this Agreement or by law, the Trustee is expressly authorized and empowered:

(a) To sell, exchange, convey, transfer, or otherwise dispose of any property held by it, by public or private sale. No person dealing with the Trustee shall be bound to see to the application of the purchase money or to inquire into the validity or expediency of any such sale or other disposition;

(b) To make, execute, acknowledge, and deliver any and all documents of transfer and conveyance and any and all other instruments that may be necessary or appropriate to carry out the powers herein granted;

(c) To register any securities held in the Fund in its own name or in the name of a nominee and to hold any security in bearer form or in book entry, or to combine certificates representing such securities with certificates of the same issue held by the Trustee in other fiduciary capacities, or to deposit or arrange for the deposit of such securities in a qualified central depository even though, when so deposited, such securities may be merged and held in bulk in the name of the nominee of such depository with other securities deposited therein by another person, or to deposit or arrange for the deposit of any securities issued by the United States Government, or any agency or instrumentality thereof, with a Federal Reserve bank, but the books and records of the Trustee shall at all times show that all such securities are part of the Fund;

(d) To deposit any cash in the Fund in interest-bearing accounts maintained or savings certificates issued by the Trustee, in its separate corporate capacity, or in any other banking institution affiliated with the Trustee, to the extent insured by an agency of the Federal or State government; and

(e) To compromise or otherwise adjust all claims in favor of or against the Fund.

Section 9. Taxes and Expenses. All taxes of any kind that may be assessed or levied against or in respect of the Fund and all brokerage commissions incurred by the Fund shall be paid from the Fund. All other expenses incurred by the Trustee in connection with the administration of this Trust, including fees for legal services rendered to the Trustee, the compensation of the Trustee to the extent not paid directly by the Grantor, and all other proper charges and disbursements of the Trustee shall be paid from the Fund.

Section 10. Annual Valuation. The Trustee shall annually, at least 30 days prior to the anniversary date of establishment of the Fund, furnish to the Grantor and to the DNR Director a statement confirming the value of the Trust. Any securities in the Fund shall be valued at market value as of no more than 60 days prior to the anniversary date of establishment of the Fund. The failure of the Grantor to object in writing to the Trustee within 90 days after the statement has been furnished to the Grantor and the DNR Director shall constitute a conclusively binding assent by the Grantor, barring the Grantor from asserting any claim or liability against the Trustee with respect to matters disclosed in the statement.

Section 11. Advice of Counsel. The Trustee may from time to time consult with counsel, who may be counsel to the Grantor, with respect to any question arising as to the construction of this Agreement or any action to be taken hereunder. The Trustee shall be fully protected, to the extent permitted by law, in acting upon the advice of counsel.

Section 12. Trustee Compensation. The Trustee shall be entitled to reasonable compensation for its services as agreed upon in writing from time to time with the Grantor.

Section 13. Successor Trustee. The Trustee may resign or the Grantor may replace the Trustee, but such resignation or replacement shall not be effective until the Grantor has appointed a successor trustee and this successor accepts the appointment. The successor trustee shall have the same powers and duties as those conferred upon the Trustee hereunder. Upon the successor trustee's acceptance of the appointment, the Trustee shall assign, transfer, and pay over to the successor trustee the funds and properties then constituting the Fund. If for any reason the Grantor cannot or does not act in the event of the resignation of the Trustee, the Trustee may apply to a court of competent jurisdiction for the appointment of a successor trustee or for instructions. The successor trustee shall specify the

date on which it assumes administration of the trust in a writing sent to the Grantor, the DNR Director, and the present Trustee by certified mail 10 days before such change becomes effective. Any expenses incurred by the Trustee as a result of any of the acts contemplated by this Section shall be paid as provided in Section 9.

Section 14. Instructions to the Trustee. All orders, requests, and instructions by the Grantor to the Trustee shall be in writing, signed by such persons as are designated in the attached Exhibit A or such other designees as the Grantor may designate by amendment to Exhibit A. The Trustee shall be fully protected in acting without inquiry in accordance with the Grantor's orders, requests, and instructions. All orders, requests, and instructions by the DNR Director to the Trustee shall be in writing, signed by the DNR Director, and the Trustee shall act and shall be fully protected in acting in accordance with such orders, requests, and instructions. The Trustee shall have the right to assume, in the absence of written notice to the contrary, that no event constituting a change or a termination of the authority of any person to act on behalf of the Grantor or DNR hereunder has occurred. The Trustee shall have no duty to act in the absence of such orders, requests, and instructions from the Grantor and/or DNR except as provided for herein.

Section 15. Notice of Nonpayment. The Trustee shall notify the Grantor and the DNR Director, by certified mail within 10 days following the expiration of the 30-day period after the anniversary of the establishment of the Trust, if no payment is received from the Grantor during that period. After the pay-in period is completed, the Trustee shall not be required to send a notice of nonpayment.

Section 16. Amendment of Agreement. This Agreement may be amended by an instrument in writing executed by the Grantor, the Trustee, and the DNR Director, or by the Trustee and the DNR Director, if the Grantor ceases to exist.

Section 17. Irrevocability and Termination. Subject to the right of the parties to amend this Agreement as provided in Section 16, this Trust shall be irrevocable and shall continue until terminated at the written agreement of the Grantor, the Trustee, and the DNR Director, or by the Trustee and the DNR Director, if the Grantor ceases to exist. Upon termination of the Trust, all remaining trust property, less final trust administration expenses, shall be delivered to the Grantor.

Section 18. Immunity and Indemnification. The Trustee shall not incur personal liability of any nature in

connection with any act or omission, made in good faith, in the administration of this Trust or in carrying out any directions by the Grantor or the DNR Director issued in accordance with this Agreement. The Trustee shall be indemnified and saved harmless by the Grantor or from the Trust Fund, or both, from and against any personal liability to which the Trustee may be subjected by reason of any act or conduct in its official capacity, including all expenses reasonably incurred in its defense in the event the Grantor fails to provide such defense.

Section 19. Choice of Law. This Agreement shall be administered, construed, and enforced according to the laws of the State of Iowa.

Section 20. Interpretation. As used in this Agreement, words in the singular include the plural and words in the plural include the singular. The descriptive headings for each Section of this Agreement shall not affect the interpretation or the legal efficacy of this Agreement.

a. In Witness Whereof the parties have caused this Agreement to be executed by their respective officers duly authorized and their corporate seals to be hereunto affixed and attested as of the date first above written: The parties below certify that the wording of this Agreement is identical to the wording specified in 567--102.18(1)(455) Iowa Administrative Code as such rules were constituted on the date first above written.

[Signature of Grantor]

[Title]

Attest:

[Title]

[Seal]

[Signature of Trustee]

Attest:

[Title]

[Seal]

b. Certification of Acknowledgment. The following is an example of the certification of acknowledgment which must accompany the trust agreement for a trust fund as specified in this chapter.

State of _____
County of _____

On this [date], before me personally came [owner or operator] to me known, who, being by me duly sworn, did depose and say that she/he resides at [address], that she/he is [title] of [corporation], the corporation described in and which executed the above instrument; that she/he knows the seal of said corporation; that the seal affixed to such

instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation and that she/he signed her/his name thereto by like order.

Signature of Notary Public

102.18(2) Surety Bond guaranteeing payment. A surety bond guaranteeing payment into a trust fund, as specified in 102.17(3) of this chapter, must be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

Financial Guarantee Bond

Date bond executed: _____
 Effective date: _____
 Principal: [legal name and business address of owner or operator]
 Type of Organization: [insert "individual," "joint venture," "partnership," or "corporation"]
 State of incorporation: _____
 Surety(ies): [name(s) and business address(es)]
 DNR Identification Number, name, address and closure and/or post-closure amount(s) for each facility guaranteed by this bond [indicate closure and post-closure amounts separately]: _____
 Total penal sum of bond: \$ _____
 Surety's bond number: _____

Know All Persons By These Presents, That we, the Principal and Surety(ies) hereto are firmly bound to the Iowa Department of Natural Resources (hereinafter DNR), in the above penal sum for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns jointly and severally; provided that, where the Surety(ies) are corporations acting as co-sureties, we, the Sureties, bind ourselves in such sum "jointly and severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such Surety, but if no limit of liability is indicated, the limit of liability shall be the full amount of the penal sum.

Whereas said Principal is required, under the 455B.301 - 455B.306 of the Code of Iowa, to have a permit in order to own or operate each solid waste facility identified above, and

Whereas said Principal is required to provide financial assurance for closure and post-closure care, as a condition of the permit, and

Whereas said Principal shall establish a standby trust fund as is required when a surety bond is used to provide such financial assurance;

Now, Therefore, the conditions of the obligation are such that if the Principal shall faithfully, before the beginning of final closure of each facility identified above, fund the standby trust fund in the amount(s) identified above for the facility,

Or, if the Principal shall fund the standby trust fund in such amount(s) within 15 days after a final order to begin closure is issued by a DNR Director or a Iowa district court or other court of competent jurisdiction,

Or, if the Principal shall provide alternate financial assurance, as specified in subrule 567--102.16(8) (455B) as applicable, and obtain the DNR Director's written approval of such assurance, within 90 days after the date notice of cancellation is received by both the Principal and the DNR Director from the Surety(ies), then this obligation shall be null and void, otherwise it is to remain in full force and effect.

The Surety(ies) shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described above. Upon notification by a DNR Director that the Principal has failed to perform as guaranteed by this bond, the Surety(ies) shall place funds in the amount guaranteed for the facility(ies) into the standby trust fund as directed by the DNR Director.

The liability of the Surety(ies) shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the aggregate to the penal sum of the bond, but in no event shall the obligation of the Surety(ies) hereunder exceed the amount of said penal sum.

The Surety(ies) may cancel the bond by sending notice of cancellation by certified mail to the Principal and to the DNR Director provided, however, that cancellation shall not occur during the 120 days beginning on the date of receipt of the notice of cancellation by both the Principal and the DNR Director as evidenced by the return receipts.

The Principal may terminate this bond by sending written notice to the Surety(ies), provided, however, that no such notice shall become effective until the Surety(ies) receive(s) written authorization for termination of the bond by the DNR Director.

[The following paragraph is an optional rider that may be included but is not required.]

Principal and Surety(ies) hereby agree to adjust the penal sum of the bond yearly so that it guarantees a new closure and/or post-closure amount, provided that the penal sum does not increase by more than 20 percent in any one year, and no decrease in the penal sum takes place without the written permission of the DNR Director.

In Witness Whereof, the Principal and Surety(ies) have executed this Financial Guarantee Bond and have affixed their seals on the date set forth above.

The persons whose signatures appear below hereby certify that they are authorized to execute this surety bond on behalf of the Principal and Surety(ies) and that the wording of this surety bond is identical to the wording specified in 567--102.18(2) (455B) as such rules were constituted on the date this bond was executed.

Principal

[Signature(s)] _____

[Name(s)] _____

[Title(s)] _____

[Corporate seal)] _____

Corporate Surety(ies)

[Name and address]

State of incorporation:] _____

Liability limit: \$ _____

[Signature(s)]

[Name(s) and title(s)]

[Corporate seal]

[For every co-surety, provide signature(s), corporate seal, and other information in the same manner as for Surety above.]

Bond premium: \$ _____

102.18(3) Surety Bond Guaranteeing Performance. A surety bond guaranteeing performance of closure and/or post-closure care, as specified in 102.17(3), must be worded as follows, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted:

Performance Bond

Date bond executed: _____

Effective date: _____

Principal: [legal name and business address of owner or operator]

Type of organization: [insert "Individual," "joint venture," "partnership," or "corporation"]

State of incorporation: _____

Surety(ies): [name(s) and business address(es)]

DNR Identification Number, name, address, and closure and/or post-closure amount(s) for each facility guaranteed by this bond [indicate closure and post-closure amounts separately]: _____

Total penal sum of bond: \$ _____

Surety's bond number: _____

Know All Persons By These Presents, That we, the Principal and Surety(ies) hereto are firmly bound to the Iowa Department of Natural Resources (hereinafter called DNR), in the above penal sum for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns jointly and severally; provided that, where the Surety(ies) are corporations acting as co-sureties, we, the Sureties, bind ourselves in such sum "jointly and severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such Surety, but if no limit of liability is indicated, the limit of liability shall be the full amount of the penal sum.

Whereas said Principal is required, under 455B.301 - 455B.306 of the Code of Iowa, to have a permit in order to own or operate each solid waste facility identified above, and

Whereas said Principal is required to provide financial assurance for closure and post-closure care, as a condition of the permit, and

Whereas said Principal shall establish a standby trust fund as is required when a surety bond is used to provide such financial assurance;

Now, Therefore, the conditions of this obligation are such that if the Principal shall faithfully perform closure, whenever required to do so, of each facility for which this bond guarantees closure, in accordance with the closure plan and other requirements of the permit as such plan and permit may be amended, pursuant to all applicable laws, statutes, rules and regulations, as such laws, statutes, rules and regulations may be amended,

And, if the Principal shall faithfully perform post-closure care of each facility for which this bond guarantees post-closure care, in accordance with the post-closure plan and other requirements of the permit, as such plan and permit may be amended, pursuant to all applicable laws, statutes, rules, and regulations, as such laws, statutes, rules, and regulations may be amended,

Or, if the Principal shall provide alternate financial assurance as specified in subrule 567--102.16(8) (455B) and obtain the DNR Director's written approval of such assurance, within 90 days after the date notice of cancellation is received by both the Principal and the DNR Director from the Surety(ies), then this obligation shall be null and void, otherwise it is to remain in full force and effect.

The Surety(ies) shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described above.

Upon notification by the DNR Director that the Principal has been found in violation of the closure requirements of 102.14(9), for a facility for which this bond guarantees performance of closure, the Surety(ies) shall either perform closure in accordance with the closure plan and other permit requirements or place the closure amount guaranteed for the facility into the standby trust fund as directed by the DNR Director.

Upon notification by an DNR Director that the Principal has failed to provide alternate financial assurance as specified in subrule 102.17(3), and obtain written approval of such assurance from the DNR Director during the 90 days following receipt by both the Principal and the DNR Director of a notice of cancellation of the bond, the Surety(ies) shall place funds in the amount guaranteed for the facility(ies) into the standby trust fund as directed by the DNR Director.

The Surety(ies) hereby waive(s) notification of amendments to closure plans, permits, applicable laws, statutes, rules, and regulations and agrees that no such amendment shall in any way alleviate its (their) obligation on this bond.

The liability of the Surety(ies) shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the aggregate to the penal sum of the bond, but in no event shall the obligation of the Surety(ies) hereunder exceed the amount of said penal sum.

The Surety(ies) may cancel the bond by sending notice of cancellation by certified mail to the owner or operator and to the DNR Director provided, however, that cancellation shall not occur during the 120 days beginning on the date of receipt of the notice of cancellation by both the Principal and the DNR Director as evidenced by the return receipts.

The principal may terminate this bond by sending written notice to the Surety(ies), provided, however, that no such notice shall become effective until the Surety(ies) receive(s) written authorization for termination of the bond by the DNR Director.

[The following paragraph is an optional rider that may be included but is not required.]

Principal and Surety(ies) hereby agree to adjust the penal sum of the bond yearly so that it guarantees a new closure and/or post-closure amount, provided that the penal sum does not increase by more than 20 percent in any one year, and no decrease in the penal sum takes place without the written permission of the DNR Director.

In Witness Whereof, The Principal and Surety(ies) have executed this Performance Bond and have affixed their seals on the date set forth above.

The persons whose signatures appear below hereby certify that they are authorized to execute this surety bond on behalf of the Principal and Surety(ies) and that the wording of this surety bond is identical to the wording specified in subrule 102.18(3) as such rule was constituted on the date this bond was executed.

Principal

[Signature(s)]
[Name(s)]
[Title(s)]
[Corporate seal]

Corporate Surety(ies)

[Name and address]
State of incorporation: _____
Liability limit: \$ _____
[Signature(s)]
[Name(s) and title(s)]
[Corporate seal]

[For every co-surety, provide signature(s), corporate seal, and other information in the same manner as for Surety above.]

Bond premium: \$ _____

102.18(4) Letter of Credit. A letter of credit, as specified in 102.17(4) or 102.17(5) of this chapter, must be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

Irrevocable Standby Letter of Credit

Director

Department of Natural Resources

Dear Sir or Madam: We hereby establish our Irrevocable Standby Letter of Credit No.____ in your favor, at the request and for the account of [owner's or operator's name and address] up to the aggregate amount of [in words] U.S. dollars \$____, available upon presentation of

(1) your sight draft, bearing reference to this letter of credit No.____, and

(2) your signed statement reading as follows: "I certify that the amount of the draft is payable pursuant to rules adopted under authority of the Code of Iowa, chapter 455B."

This letter of credit is effective as of [date] and shall expire on [date at least 1 year later], but such expiration date shall be automatically extended for a period of [at least 1 year] on [date] and on each successive expiration date, unless, at least 120 days before the current expiration date, we notify both you and [owner's or operator's name] by certified mail that we have decided not to extend this letter of credit beyond the current expiration date. In the event you are so notified, any unused portion of the credit shall be available upon presentation of your sight draft for 120 days after the date of receipt by both you and [owner's or operator's name], as shown on the signed return receipts.

Whenever this letter of credit is drawn on under and in compliance with the terms of this credit, we shall duly honor such draft upon presentation to us, and we shall deposit the amount of the draft directly into the standby trust fund of [owner's or operator's name] in accordance with your instructions.

We certify that the wording of this letter of credit is identical to the wording specified in 567 I.A.C. 102.18(4) as such rule was were constituted on the date shown immediately below.

[Signature(s) and title(s) of official(s) of issuing institution] [Date]

This credit is subject to [insert "the most recent edition of the Uniform Customs and Practice for Documentary Credits, published by the International Chamber of Commerce," or "the Uniform Commercial Code"].

102.18(5) Letter from Chief Financial Officer. A letter from the chief financial officer as specified in 102.17(5)a must be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

Letter From Chief Financial Officer

Director
Iowa Department of Natural Resources
Wallace Building
900 East Grand Ave.
Des Moines, IA 50319

Dear Sir or Madam:

I am the chief financial officer of {insert: name and address of the owner or operator, or guarantee}. This letter is in support of this firm's use of the financial test to demonstrate financial assurance of closure and post closure care for the following site(s).

Operator: _____

IDNR Site Number: _____

Site Name: _____

Address: _____

City: _____

Current Closure and Post Closure Cost: \$ _____

(Please attach a separate page if space if needed for additional facilities)

Attached is an Operator's Bond (insert: "without surety" or "with Parent Surety") for the current cost estimate for the above site(s).

Financial Test

ALTERNATIVE I

1. Sum of current cost estimates (total of all cost estimates from above) \$_____
2. Total liabilities (if any portion of the cost estimates is included in total liabilities, the amount of that portion may be deducted from this line and added to lines 3 and 4. \$_____
3. Tangible net worth \$_____
4. Net Worth \$_____
5. Current liabilities \$_____
6. Net working capital (line 5 minus line 6) \$_____
7. Cash flow (sum of net income plus depreciation, depletion, and amortization) \$_____
8. Is line 3 at least \$10 million? Yes No
9. Is line 3 at least 6 times line 1? _____
10. Is line 7 at least 6 times line 1? _____
11. Are at least 90% of the firms assets located in the U.S.? _____
12. Is line 9 at least 6 times line 1? _____
13. Is line 2 divided by line 4 less than 2.0? _____
14. Is line 8 divided by line 2 greater than 0.1? _____
15. Is line 5 divided by line 6 greater than 1.5? _____

Signature _____
Typed name _____
Title _____
Date _____

ALTERNATIVE II

1. Sum of current cost estimates (total of all cost \$____ estimates from above)
2. Current bond rating of most recent issuance by this firm and name of rating service. Rating____
Rating service name_____
3. Date of bond issue _____
4. Date of bond maturity _____
5. Tangible net worth (if any portion of the closure and post closure cost estimates are included in "total liabilities" on your firms financial statements, that portion of the amount may be added to this line. \$_____
6. Is line 5 at least \$10,000,000? Yes No

7. Is line 5 at least 6 times line 1 _____
8. Are at least 90% of the firms assets _____
9. Is line 6 at least 6 times line 1? _____

Signature_____
Typed name_____
Title_____
Date_____

102.18(6)

Bond Without Surety

Date bond executed:_____

Effective date:_____

Operator:_____

Operator's address:_____

Site:_____

Penal sum: \$_____

The operator promises to pay the penal sum to the Iowa Department of Natural Resources unless the Operator provides closure and post-closure care of the site in accordance with the closure and post-closure plans for the site.

Operator

Signature

Typed Name

Title

Date

Corporate seal

102.18(7)

Bond With Parent Surety

Date bond executed: _____
Effective date: _____
Surety: _____
Surety's address: _____
Operator: _____
Operator's address: _____
Site: _____
DNR Site Number _____
Site address: _____
Penal sum: \$ _____

The operator and Surety promise to pay the above penal sum to the Iowa Department of Natural Resources (DNR) unless the Operator provides closure and post-closure care of the site in accordance with the closure and post-closure plans for the site. To the payment of the obligation the Operator and Surety jointly and severally bind themselves, their heirs, executors, administrators, successors and assigns.

Whereas the Operator is required under chapter 567--102(455) of the Iowa Administrative Code to have a permit to conduct a waste disposal operation; and

Whereas the Operator and Surety agree that this bond shall be governed by the laws of the State of Iowa; and

Whereas the Surety is a corporation which owns an interest in the Operator;

The Surety shall pay the penal sum to the DNR if, during the term of the bond, the Operator fails to provide closure and post-closure care for any site in accordance with the closure and post-closure care plans for that site as guaranteed by this bond. The Operator fails to so provide when the Operator:

- a) Abandons the site;
- b) Is adjudicated bankrupt;
- c) Fails to initiate closure of the site or post-closure care when ordered to do so by the Board or a court of competent jurisdiction; or
- d) Notifies the Agency that it has initiated closure, or initiates closure, but fails to close the site or provide post-closure care in accordance with the closure and post-closure care plans.

The Surety shall pay the penal sum of the bond to the DNR within 30 days after the DNR mails notice to the Surety that

the Operator has failed to so provide closure and post-closure care. Payment shall be made into the Standby Trust.

In Witness Whereof, the Operator and Surety have executed this bond and have affixed their seals on the date set forth above.

The persons who signatures appear below certify that they are authorized to execute this surety bond on behalf of the Operator and Surety.

Operator
Signature

Surety
Name

Typed Name

Address

Title

State of Incorporation

Date

Signature

Typed Name

Title

102.18(8) Bond Rating Test.

A. The owner or operator of a publicly owned facility or local government serving as guarantor using the bond rating test as specified in subrule 102.17(6) of this chapter, must provide a copy of a letter signed by the chief financial officer of the local government worded exactly as follows, except that the instructions in brackets are to be replaced by the relevant information and the brackets deleted.

B. Letter From Chief Financial Officer

I am the chief financial officer of [insert: name and address of local government owner or operator, or guarantor]. This letter is in support of the use of the bond rating test to demonstrate financial responsibility for [insert: "closure" and/or "post-closure"] in the amount of at least [insert: dollar amount]. The sanitary disposal project at the following location is assured by this bond rating test: [insert: name and address of each facility assured by the bond rating test].

The details of the issue date, maturity, outstanding amount, bond rating, and bond rating agency of all outstanding general obligation bond issues that are being used by [insert: name of local government owner or operator or guarantor] to demonstrate financial responsibility are as follows: [complete table]

Issue Date	Maturity	Outstanding Amount	Rating	Agency
------------	----------	--------------------	--------	--------

The total outstanding obligation of [insert amount] exceeds the minimum amount of \$1 million. All general obligation bonds with ratings have been ratings that are at least investment grade (Moody's Baa or Standard and Poor's BBB).

I hereby certify that the wording of this letter is identical to the wording specified in 567 IAC 102.18(8) as such rules were constituted on the date shown immediately below.

[Signature]

[Name]

[Title]

[Date]

102.18(9) Local Government Without Standby Trust Made by a Local Government. Guaranty made this [date] by [name of guaranteeing entity], a local government organized under the laws of Iowa herein referred to as guarantor, to the Iowa Department of Natural Resources and to any and all third parties, and obligees, on behalf of [local government owner or operator].

Recitals

(1) Guarantor meets or exceeds [select one: the local government bond rating test requirements of 567 IAC 102.17(6) or the local government dedicated fund test financial test requirements of 567 IAC 102.17(8)].

(2) [Local government owner or operator] owns or operates the following sanitary disposal project covered by this guaranty: [list the facility by name and address]. This guaranty satisfies 567 IAC 102.16 for assuring funding for [insert: closure and/or post-closure] arising from the operation of the sanitary disposal project in the amount of [insert: dollar amount] for closure and [insert: dollar amount] for post-closure.

(3) Incident to our substantial governmental relationship with [local government owner or operator], guarantor guarantees to the Iowa Department of Natural Resources and to any and all third parties and obligees that:

In the event that [local government owner or operator] fails to provide alternative coverage within 60 days after receipt of a notice of cancellation of this guaranty and the

Director of the Iowa Department of Natural Resources has determined that closure and/or post-closure activities must occur at the facility covered by this guaranty, the guarantor, upon written instructions from the Director of the Iowa Department of Natural Resources shall make funds available to pay for closure and/or post-closure in an amount not to exceed the coverage limits specified above.

In the event that the Director of the Iowa Department of Natural Resources determines that [local government owner or operator] has failed to perform closure and/or post-closure activities for the facility identified herein in accordance with 567 IAC 102 through 106, the guarantor upon written instructions from the Director of the Iowa Department of Natural Resources shall make funds available to pay for closure and/or post closure activities in an amount not to exceed the coverage limits specified above.

(4) Guarantor agrees that if at the end of any fiscal year before cancellation of this guaranty, the guarantor fails to meet or exceed the requirements specified in 567 IAC 102.17(8) or (6), guarantor shall send within 120 days of such failure, by certified mail, notice to [local government owner or operator], as evidenced by the return receipt.

(5) Guarantor agrees to notify [local government owner or operator] by certified mail of a voluntary or involuntary proceeding under Title 9 (Bankruptcy), U.S. Code naming guarantor as debtor, within 10 days after commencement of the proceeding.

(6) Guarantor agrees to remain bound under this guaranty notwithstanding any modification or alteration of any obligation of [local government owner or operator] pursuant to 567 IAC 102.

(7) Guarantor agrees to remain bound under this guaranty for so long as [local government owner or operator] must comply with the applicable financial responsibility requirements of 567 IAC 102.16 for the above identified facility, except that guarantor may cancel this guaranty by sending notice by certified mail to [local government owner or operator], such cancellation to become effective no earlier than 120 days after receipt of such notice by [local government owner or operator], as evidenced by the return receipt.

(8) The guarantor's obligation does not apply to any of the following:

(a) Any obligation of [local government owner or operator] under a workers' compensation disability benefits, or unemployment compensation law or other similar law;

(b) Bodily injury to an employee of [insert: local government owner or operator] arising from, and in the

course of, employment by [insert: local government owner or operator];

(c) Bodily injury or property damage arising from the ownership, maintenance, use, or entrustment to others of any aircraft, motor vehicle, or watercraft; or

(d) Property damage to any property owned, rented, loaned to, in the care, custody, or control of, or occupied by [insert: local government owner or operator] that is not the direct result of closure and/or post-closure.

(9) Guarantor expressly waives notice of acceptance of this guaranty by the Iowa Department of Natural Resources, by any or all third parties, or by [local government owner or operator].

I hereby certify that the wording of this guaranty is identical to the wording specified in 567 IAC 102.18(9) as such rules were constituted on the effective date shown immediately below.

Effective date: _____

[Name of guarantor]

[Authorized signature for guarantor]

[Name of person signing]

[Title of person signing]

Signature of witness or notary

Larry J. Wilson, Director

Date

(A:EP121A/B.RUL/273-92.mc)

- 39 -

Mr. Stokes explained that on page 3, fourth line from the bottom the figure 75% should be corrected to 50%.

Motion was made by Rozanne King to approve Notice of Intended Action--Chapter 102, Solid Waste Financial Assurance Rules. Seconded by Nancylee Siebenmann. Motion carried unanimously.

APPROVED AS PRESENTED

FINAL RULE--CHAPTER 61, CERTIFICATION OF CORPS OF ENGINEERS REGIONAL PERMITS

Allan Stokes, Division Administrator, Environmental Protection Division. presented the following item.

Commission approval is requested for the attached Final Rule. The Final Rule as written would provide Section 401 Water Quality Certification for three Regional Section 404 permits proposed by the Rock Island District of the Corps of Engineers.

The Regional Permits being proposed are similar to the Nationwide Permits in that they will, if certified, provide blanket Section 404 permit authority for various types of construction activities. Regional Permits are limited in geographical coverage and would only cover activities within the State of Iowa. Regional Permits, like Nationwide Permits are issued for five year periods. The following Regional Permits would be granted Section 401 water quality certification. Regional Permits 2 and 12 are renewals of existing Regional Permits; Regional Permit 20 would be a new permit and is being proposed at the request of the Soil Conservation Service.

#2 - Authorizes bank stabilization along certain portions of the Des Moines River. Bank stabilization measures so authorized must conform to specifications contained in the permit conditions regarding types of materials, dimensions, etc.

#12 - Authorizes boat launching facilities (i.e., boat ramps). Works covered under this permit must conform to specifications regarding materials and dimensions.

#20 - Authorizes activities performed under the authority of PL 534 and PL 566. PL 566 and PL 534 authorize Federal financial and technical assistance for the planning and construction of watershed protection projects. This regional permit would cover dams, terraces, waterways and various conservation measures constructed under those authorities.

A public hearing was held on September 24, 1992 in the Wallace State Office Building to receive comments on the proposed rule. No written or oral comments were received.

ENVIRONMENTAL PROTECTION COMMISSION [567]
Adopted and Filed

Pursuant to the authority of Iowa Code sections 455B.105 and 455B.173, the Environmental Protection Commission for the Department of Natural Resources amends Chapter 61, "Water Quality Standards," Iowa Administrative Code.

The amendment, as adopted by the Environmental Protection Commission at its October 19, 1992 meeting, provides certification pursuant to section 401 of the federal Clean Water Act (33 U.S.C. section 1341) for three Regional Section 404 permits proposed by the Rock Island District of the United States Army Corps of Engineers.

A Notice of Intended Action was published on September 2, 1992, as ARC 3324A. A public hearing was held on September 24, 1992, in the Wallace State Office Building, Des Moines. No oral or written comments were received during the public comment period. The final rule has not been changed from the notice.

This rule does not modify existing, substantive water quality standards, but are intended to define the applicability of existing standards to the Corps regional permits.

This rule is intended to implement Iowa Code Chapter 455B, Division III, Part 1. The rule becomes effective December 16, 1992, after filing with the Administrative Rules Coordinator and publication in the Iowa Administrative Bulletin.

Amend subrule 61.2(2) h as follows:

h. This policy shall be applied in conjunction with water quality certification review pursuant to Section 401 of the Act. In the event that activities are specifically exempted from flood plain development permits or any other permits issued by this department in 567--Chapters 70, 71, and 72 the activity will be considered consistent with this policy. Other activities not otherwise exempted will be subject to 567--Chapters 70, 71, and 72 and this policy. United States Army Corps of Engineers (Corps) nationwide permits, 33 CFR 330, Numbers 3, 4, 5, 6, 7, 12, 13, 14, 15, 16, 17, 18, 20, 21, 22, 23, 25, 26, 27, 32, 33, 34, 36, 37, 38, and 40, as promulgated November 22, 1991, are certified pursuant to Section 401 of the Clean Water Act. Regional permit numbers 2, 12, and 20 of the Rock Island District of the Corps are also certified. No specific Corps permit or 401 certification is required for activities covered by these permits unless required by the nationwide permit or the Corps, and the activities are allowed subject to the terms of the nationwide and regional permits.

Mr. Stokes gave a brief explanation of the rule.

Motion was made by Gary Priebe to approve Final Rule--Chapter 61, Certification of Corps of Engineers Regional Permits. Seconded by Nancylee Siebenmann. Motion carried unanimously.

APPROVED AS PRESENTED

PROPOSED CONTESTED CASE DECISION--DELL OIL COMPANY

Mike Murphy, Bureau Chief, Legal Services Bureau, presented the following item.

On December 20, 1991, the department issued an Administrative Order to Dell Oil Ltd. That action required submission of a remedial action plan and payment of a \$1,000.00 penalty. That action was appealed and the matter proceeded to administrative hearing on May 19 and June 2 and 3, 1992. The Administrative Law Judge issued the attached Proposed Findings of Fact, Conclusions of Law, and Order on September 30, 1992. The decision affirms and reverses parts of the Order.

Either party may appeal the Proposed Decision to the Commission. In the absence of an appeal, the Commission may decide on its own motion to review the Proposed Decision. If there is no appeal or review of the Proposed Decision, it automatically becomes the final decision of the Commission.

Mr. Murphy presented a history of the case.

The Commission took no action; this has the effect of upholding the Administrative Law Judge's decision in the absence of an appeal

AFFIRMED ADMINISTRATIVE LAW JUDGE DECISION

REFERRALS TO THE ATTORNEY GENERAL (CONTINUED)

Mike Murphy, Bureau Chief, Legal Services Bureau, presented the following item.

The Director requests the referral of the following to the Attorney General for appropriate legal action. Litigation reports have been provided to the Commissioners and are confidential pursuant to Iowa Code section 22.7(4). The parties have been informed of this action and may appear to discuss this matter. If the Commission needs to discuss strategy with counsel on any matter where the disclosure of matters discussed would be likely to prejudice or disadvantage its position in litigation, the Commission may go into closed session pursuant to Iowa Code section 21.5(1)(c).

Central Paving Corporation

Mr. Murphy briefed the Commission on the history of this case involving failure to submit a closure report for a tank removal.

Motion was made by Charlotte Mohr for referral to the Attorney General's Office. Seconded by Rozanne King. Motion carried unanimously.

REFERRED

Don Smith

Mr. Murphy briefed the Commission on the history of this case involving failure to register tanks and properly close them.

Motion was made by Gary Priebe for referral to the Attorney General's Office. Seconded by Rozanne King. Motion carried unanimously.

REFERRED

Marion Stark

Mr. Murphy briefed the Commission on the history of this case involving failure to register tanks and submit a closure report.

Motion was made by Rozanne King for referral to the Attorney General's Office. Seconded by Gary Priebe. Motion carried unanimously.

REFERRED

Joslin Enterprises, Ltd.

Mr. Murphy stated that staff will withdraw this referral as they submitted the needed information.

REFERRAL WITHDRAWN

John Prins/Bradford Paving

Mr. Murphy briefed the Commission on the history of this case involving failure to complete a closure investigation. He pointed out that Dave Wornson works very diligently with involved parties to try to avoid having to refer these types of cases.

Motion was made by Nancylee Siebenmann for referral to the Attorney General's Office. Seconded by William Ehm. Motion carried unanimously.

REFERRED

Nob Hill Supper Club

Mr. Murphy briefed the Commission on the history of this case involving failure to take nitrate and bacteria samples of their water supply.

Motion was made by Nancylee Siebenmann for referral to the Attorney General's Office. Seconded by William Ehm. Motion carried unanimously.

REFERRED

Breitbach's Tap

Mr. Murphy stated that staff will withdraw this referral because the penalty was received.

REFERRAL WITHDRAWN

Stone City General Store

Mr. Murphy briefed the Commission on the history of this case involving water supply violations and failure to submit the penalty.

Motion was made by William Ehm for referral to the Attorney General's Office. Seconded by Rozanne King. Motion carried unanimously.

REFERRED

Dick White

Mr. Murphy briefed the Commission on the history of this case involving an open burning violation and failure to pay a penalty.

Motion was made by William Ehm for referral to the Attorney General's Office. Seconded by Gary Priebe. Motion carried unanimously.

REFERRED

NEXT MEETING DATES

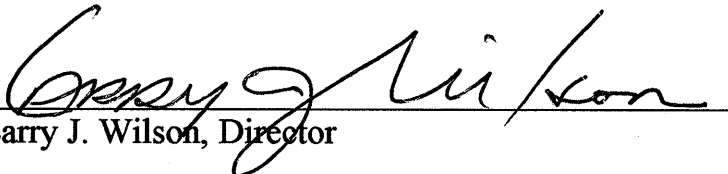
Novemer 16, 1992

December 21, 1992

January 19, 1993 (Tuesday)

ADJOURNMENT

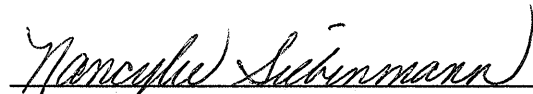
With no further business to come before the Environmental Protection Commission, Chairperson Hartsuck adjourned the meeting at 7:00 p.m., Monday, October 19, 1992.


Larry J. Wilson, Director


Richard Hartsuck, Chairperson

October 1992

Environmental Protection Commission Minutes



Nancy Lee Siebenmann, Secretary

INDEX

A

Adjournment, 118

Adoption of Agenda, 1

Agreement

Interagency Agreement with UNI for
Small Business Assistance Program, 6

Air Quality

State Implementation Plan

Revisions, 72

Appointment

Craver, Jim (City of Centerville referral),
20Eide, Eric (Leo Schachtner contest case),
16

Shirley, Ed (Young Radiator referral), 21

Approval of Minutes, 1

B

Breitbach's Tap

Referrals to the Attorney General, 118

Budget Request

FY94 and FY95, 2

C

Call to Order, 1

Cavner, Dennis

Public Participation (inerts), 13

Central Paving Corporation

Referrals to the Attorney General, 116

City of Centerville

Referrals to the Attorney General, 19

Contested Case Decision

Appeal

Schachtner, Leo, 15

Proposed

Dell Oil Company, 115

Corps of Engineers

Certification of Regional Permits--
Chapter 61

Final Rule, 113

Craver, Jim - Appointment (City of
Centerville referral), 20**D**

Dell Oil Company

Proposed Contested Case Decision, 115

Director's Report, 1

EEide, Eric - Appointment (Leo Schachtner
contested case), 16**F**

Final Rule

Chapter 61, Certification of Corps of
Engineers Regional Permits, 113

Ford, John - Public Participation (inerts), 14

Frieberg, Dan - Public Participation (inert
ingredients), 11**J**

Joslin Enterprises, Ltd.

Referrals to the Attorney General, 117

LLaird, Russell - Public Participation (bottle
bill legislative proposal), 7

Landfill Alternative Grant Contracts, 21

Legislation

Package

1993, 25

MManderfield, Cary - Public Participation
(inerts), 14

Melton, Jim - Public Participation (inerts), 14

Members Absent, 1

Members Present, 1

Monroe, Bill - Public Participation
(newsprint content legislation), 8

Monthly Reports, 56

N

Neubauer, John - Public Participation (bottle bill legislation), 8
 Neumann, Tom - Public Participation (10 year moritorium on wastewater treatment plants), 10
 Nob Hill Supper Club
 Referrals to the Attorney General, 117
 Notice of Intended Action
 Chapter 102, Solid Waste Financial Assurance Rules, 72

P

Paula Paul - Public Participation (inerts), 13
 Prins, John/Bradford Paving
 Referrals to the Attorney General, 117
 Public Participation
 Cavner, Dennis (inerts), 13
 Ford, John (inerts), 14
 Frieberg, Dan (inert ingredients), 11
 Laird, Russell (bottle bill legislative proposal), 7
 Manderfield, Cary (inert), 14
 Melton, Jim (inerts), 14
 Monroe Bill (newsprint content legislation), 8
 Neubauer, John (bottle bill legislation), 8
 Paul, Paula (inerts), 13
 Smallenberger, Trish (bottle bill legislation), 19
 Tom Neumann (10 year moritorium on wastewater treatment plants), 10

R

Referrals to the Attorney General
 Breitbach's Tap, 118
 Central Paving Corporation, 116
 City of Centerville, 19
 Joslin Enterprises, Ltd., 117
 Nob Hill Supper Club, 117
 Prins, John/Bradford Paving, 117
 Smith, Don, 116
 Stark, Marion, 116

Stone City General Store, 118
 White, Dick, 118
 Young Radiator Company, 19

S

Schachtner, Leo - Contested Case Decision Appeal, 15
 Section 319 Nonpoint Source Pollution Control Contract Approval, 5
 Shirley, Ed - Appointment (Young Radiator referral), 21
 Small Business Assistance Program
 Interagency Agreement with UNI, 6
 Smallenberger, Trish - Public Participation (bottle bill legislation), 19
 Smith, Don
 Referrals to the Attorney General, 116
 Solid Waste Financial Assurance Rules--
 Chapter 102
 Notice of Intended Action, 72
 Stark, Marion
 Referrals to the Attorney General, 116
 State Implementation Plan
 Revisions, 72
 Stone City General Store
 Referrals to the Attorney General, 118

U

UNI

Interagency Agreement for Small Business Assistance Program, 6

W

White, Dick
 Referrals to the Attorney General, 118

Y

Young Radiator Company
 Referrals to the Attorney General, 19